

GRANDSTAFF 

ROKOSCH 

THOMPSON 

CHILCOTT 

DRISCOLL 

PLETTENBERG (Clerk & Recorder)

Members Present.....Commissioner Carlotta Grandstaff, Commissioner Jim Rokosch, Commissioner Greg Chilcott and Commissioner Kathleen Driscoll

Date.....July 23, 2008

Minutes: Glenda Wiles

► The Board met with Civil Counsel Karen Hughes and County Attorney George Corn in regard to the prioritization of the Civil Counsel time. Karen recapped the top five priorities the Commissioners decided upon which included zoning research. Karen noted various private attorneys in the valley have asked the County Attorney's Office for their opinion and research in regard to zoning issues. George noted he has advised these attorneys of the fact that Civil Counsel works at the behest of the Commissioners and not to private law offices wanting research and opinions. George and Karen also addressed new work that will be presented through the Clerk and Recorder's Office in regard to a petition on the zoning issues and time lines. The County Attorney's Office will be working with the Commissioners, Planning and Clerk and Recorder in regard to the zoning time line. This issue will also be addressed later this afternoon with Planning.

Karen stated they had looked at the draft regulations in a cursory manner in regard to subdivisions and pending litigation. Karen stated the Commissioners need to review the division of work apportionment between the County Attorney's Office and Clarion.

The second priority was impact fees. Karen stated they have an outline of the general process for that establishment. She is waiting for the Impact Advisory Committee to obtain sample resolutions from the school districts in the county. The next step is to meet with the Commissioners, hopefully mid-August, in order to address this issue.

Karen also noted she is preparing a litigation update for the auditors. After that list is prepared, she will have an update with the Commissioners on this.

The third priority was floodplain matters. Karen stated they dealt with the Paul Dannels issue which included working with Commissioner Chilcott and Floodplain Administrator

Laura Hendrix. They have two settlement conferences coming up and they are continually having ongoing floodplain review matters with Laura.

Fourth priority was open lands. The letter to the landowners was approved. Nothing has come back from the first applicant. Karen had a phone conference with Attorney Mae Nan Ellingson in regard to the questions raised at the meetings, specifically procedural issues. Commissioner Rokosch asked about any of the fees that have come through subdivision mitigation. Karen stated that is on her list for review, as this needs to be reviewed by Mae Nan since she is the bond counsel for this.

The fifth priority is roads. Karen finalized a research issue for subdivisions. She has discussed pro rata, primary access and connectivity of roads etc., with other attorneys that represent developers. The next step is to schedule a litigation strategy meeting with the Commissioners in this regard. A discussion of the county's interpretation of the subdivision regulations also needs to occur, possibly next week. Karen also met with MDOT involving road issues; being pro-active to address cumulative impacts instead of reviewing subdivisions in a piecemeal manner. Karen plans to prepare a list of issues and options allowing the Commissioners to pursue some of the issues and options. Karen stated they only have one pro rata issue pending with an Attorney.

George stated the Meridian Road issue is still pending. Paving is not dependent upon the daily complaints from the residents.

Karen addressed the projects she is currently working on; those being the airport for fuel storage, compliance with leases; animal control and their fund raising issues as well as the enforcement issues; Board of Health/Environmental Health regulatory issues as well as regulation review; Clerk & Recorder has election, zoning, exemption and emancipation issues that Karen continually works on; Commissioners projects which include speed limits on county roads, pending civil suits for the auditor, review of the Marcus Daly detention invoices, mental health services and the lack of funding from the State; Park Board and master plan issues; Tax litigation and IRS foreclosures for taxing; School Superintendent litigation/administration hearings.

George addressed the staffing levels and their recovery of the recent Stout Murder trial. They are down one attorney so George is working various misdemeanor cases. This is also vacation time so they are short staffed.

Discussion included the time that Karen spends on planning issues that are driven by deadlines. Subdivisions and zoning are two different issues as are property transactions that come to Karen from the Clerk and Recorder. Personnel issues have to be dealt with expediently. She stated the things that suffer are the reviews of policies, regulatory issues and contracts for departments.

Commissioner Driscoll asked if another attorney is hired will s/he be relegated to specific priorities or just absorbed in to the civil counsel/county attorney team? She expressed concern over the numerous issues that are not being reviewed. Karen stated any

enforcement procedures will result in further resources required from each department. George stated there is enough work for two civil attorneys. He suggested they look again at the enforcement officer who collects the evidence for these issues that need to go to enforcement.

Superintendent of Schools Dr. Ernie Jean addressed a Supreme Court case that will affect his county superintendent office for first judicial hearings that will now require an attorney. He stated no one really knows how much this court case will affect the county superintendents/attorney time. Dr. Jean also noted if the judicial hearings take place and there are one or two of these per year, it will also change the responsibilities and description of the school superintendent's job.

► In other business the Board met for the following matters:

**Commissioner Rokosch made a motion to approve the June 17, 2008 minutes and March 2008 minutes as corrected. Commissioner Chilcott seconded the motion and all voted "aye".**

The Board also held a Commission update and discussed office staff and re-organization in light of Civil Counsel's request to move back to the Courthouse with attorney office staff assistance.

In regard to Commission update Commissioner Chilcott stated MR TMA wants to purchase a new van through intercap and the county will be asked to be that sponsor through the intercap loan process.

In regard to staff re-organization and Civil Counsel's request to move back to the Courthouse the Board discussed Civil Counsel's need for attorney staff and assistance and concern over the access to legal counsel. Commissioner Chilcott expressed his concern, basically over the history of civil counsel, with the inability of the Commissioners to have access to civil counsel as necessary. He suggested they might look at remodeling the Commissioners area to allow for a reception area keeping Karen away from the citizens and other staff who can just walk in. Karen noted the need for files and their maintenance as well as staff for her assistance. She stated she cannot continue to do half of her duties at the Courthouse and full dose of duties at the Administration Center. Commissioner Rokosch stated more important than having handy access is getting those questions and priorities addressed, also noting the list is expanding continually. He stated Karen has the experience and organizational skills to address and/or manage these issues and she is the best judge of how to address those needs, i.e., whether to stay at the Administrative Center or move back to the Courthouse.

Karen stated for efficiency she feels the best thing for her is to move back to the County Attorney's Office and have the back office with its own entrance. She stated she is not adverse to having a different office and change in office structure by way of a remodel, but feels they need to see if her move back to the courthouse would work first.

Karen also suggested they move Robert Jenni in her old office as privacy is an important part of the Human Resource Director position.

Commissioner Driscoll and Commissioner Grandstaff stated they do not want to invest in any more remodel at the Administrative Center until they ascertain the efficiency of Karen moving back over to the Courthouse. Commissioner Chilcott indicated he is adamant about not having Karen move back to the Courthouse as the Commissioners will lose that connection and benefit with Civil Counsel. Also if they utilize the space and fill it with Robert Jenni's office, the space will be gone forever. Commissioner Grandstaff stated she understands Commissioner Chilcott's concern but she feels Karen will be able to better serve the Commissioners at the County Attorney's office. Commissioner Chilcott stated by moving Karen, she will again be serving two masters; one being the Commissioners and second being the County Attorney and their needs in that office.

It was agreed that Glenda will continue to receipt the County Attorney Request Forms from the Department Heads, approve them with the Chairman and then take them to Karen.

Commissioner Rokosch stated from the prioritization and time lines, they can be fairly direct with their expectations from Civil Counsel. While he understands the list is modified continually, it is modified through the Commissioners' direction and not the County Attorney's direction.

**Commissioner Rokosch made a motion to authorize the move of Civil Counsel to the Courthouse. Commissioner Driscoll seconded the motion. Discussion: Commissioner Grandstaff stated it is crucial to move the HR Director to a soundproof separate office. If a time line is put on this move it causes some problems if they need to move Karen back or Robert out. Discussion also included the need to have the Planning Office remodeled and obtain some better space there. Commissioner Rokosch amended his motion to make the date December 31<sup>st</sup>. Commissioner Rokosch, Commissioner Driscoll and Commissioner Rokosch voted "aye" and Commissioner Chilcott voted "nay".**

Minutes: Beth Perkins

► The Board met for discussion and decision on Criteria and Policy for family transfers. Present were Civil Counsel Karen Mahar, Clerk & Recorder Regina Plettenberg, Deputy Clerk Linda Beisel, and Planner Tristan Riddell.

Commissioner Grandstaff called the meeting to order.

Regina gave a brief overview and stated family transfers have been used in certain instances to get around the subdivision process. She explained for example people will gift tracts to children and then sell a remaining tract or even swap the gifted tracts to sell another more desirable parcel. Karen stated the common confusion is the regulations have a three year rebuttal presumption. The intention is to gift property to relatives, not

sell. It is up to the County Attorney to determine if it is an evasion. She discussed the evasion of a subdivision process needing to go through certain criteria to have it determined. Commissioner Chilcott asked how it applies to the subdivision process. He gave an example of lease or rent on a mother-in-law unit once vacated. Karen replied there have been some factual scenarios. There is a general sense you can go back and look at identifying past evasion. The issues that have come up are with the LLCs and selling parcels prior to the three year rebuttal presumption. There is an attorney that has advised his clients to put property into a LLC and then they can sell the LLC. Regina stated the deed would not come through her office and it would all be completed outside of the Clerk & Recorder Office. Karen stated there are legitimate business reasons for a LLC. She discussed a deed restriction to make it insurable however; there is a need to establish evasion criteria.

Karen discussed the need for the transfers to be to actual people and not corporations. Regina stated her concerns with setting precedence and allowing a transfer to a LLC. Commissioner Rokosch questioned extending the rebuttal presumption to allow time to review the secondary transfer. Karen replied yes, the Board could do that.

Commissioner Chilcott suggested the LLC transfers should be handled on a case by case basis. A family trust is safe from evasion. Commissioner Driscoll asked what happens if the three year rebuttal is lifted. Karen stated it has to be consistent. Linda stated the problem without having a date does not give a starting point for a rebuttal presumption.

Commissioner Rokosch stated his concerns with 100 lots per year going through the exemption process and developing a path to avoid the subdivision review process. Further discussion followed regarding allowing transfers to LLCs.

**Commissioner Rokosch made a motion for the Board to direct the Clerk & Recorder to deny secondary transfers from family members to corporations or LLCs. Commissioner Driscoll seconded the motion. Commissioner Grandstaff, Commissioner Rokosch and Commissioner Driscoll voted 'aye'. Commissioner Chilcott voted 'nay'.**

Karen discussed a case regarding a couple who did a family transfer, then ran into financial difficulties and wanted to sell the parcels prior to the three year limit. The original intent was to utilize the land and not sell it. Commissioner Grandstaff expressed her concerns with parcel transfers of different size. Tristan recommended viewing in a case by case basis for the sale of the parcels prior to three years. Discussion followed regarding changing the subdivision exemption criteria to be more constringent. Karen referred to MCA 76-3-207.

**It was the Board's consensus to have the remainder reviewed on a case by case basis.**

► The Board met with Environmental Health Director Lea Jordan for an update; decision on air quality personnel with U of M; letter to USDA regarding reimbursement for pesticide disposal; and a decision to join TriState WQ Council Collaborative Group.

Lea gave an overview of the letter to USDA regarding reimbursement for pesticide disposal. She explained the need for the Board to sign this letter in order to seek reimbursement for the disposal. **Commissioner Chilcott made a motion to execute the letter to USDA regarding reimbursement for pesticide disposal by Chair signature. Commissioner Driscoll seconded the motion and all voted 'aye'.**

Lea stated ChemSafe with the price of metals, can make money off of e-waste (electronics) therefore, would hold an event if Environmental Health pays for the advertising. Lea stated it would operate the same as the pesticide disposal event.

Lea stated the U of M received a grant for an air quality study for asthmatic children and filtration in homes during the winter. They asked Lea to house a part time employee for the study (20 hours per week). Lea recommended contracting an Environmental Health employee through the winter for this position. **It was the Board's consensus to investigate the pay rate and details further prior to making a decision.**

Lea stated she met with the TriState Water Quality Council Executive Director over the past week and requested to join them. It would cost nothing other than time. It would allow Lea to work with other counties regarding septic system policies and regulations. Lea further explained it would also allow the 319 grant portion for collaborative projects be utilized. **It was the Board's consensus to allow Lea to join.**

Minutes: Glenda Wiles

► In other business the Board met for the continuation of the July 17<sup>th</sup> meeting regarding a possible decision of adopting a timeline for zoning and also an internal review of Draft C Zoning Regulations. Present at this meeting was Planning Staff Shaun Morrell and numerous citizens in the audience. Shaun presented Draft C – Zoning Regulations marked *'Internal Review – this is a preliminary version of the Draft C zoning regulations, and is intended for internal review by county staff and boards. Following internal review, a public review version will be released. In the meantime, any citizen requesting a copy of this document may obtain one by contacting the Ravalli County Planning Department.'* Shaun also presented a hypothetical timeline for implementation of Option 4 (timeline) by November 7, 2008. Commissioner Grandstaff advised the audience this internal review will be comment from staff, Commissioners, Planning Board and the Casey Group. She also noted they will take public comment only after staff comment and deliberations and she anticipates this meeting will go after normal working hours.

Shaun stated they needed to assess the condition of Draft C prior to addressing any timeline for the zoning issue. Shaun noted the Casey Group and Planning Board Subcommittee for Land Use has reviewed this draft. Shaun stated they are looking for any

red flags within this draft, meaning major issues needing immediate attention. Other comments should address future consideration, a general public review and any minor tweaks which are typos, minor clarifications etc.

Highlighting the red flags would include the following:

- References to building permits/building codes
- What do the setbacks apply to – fences etc?
- Applicability – how will Darby be treated, i.e., the mapping issue
- 50,000 sq. foot threshold for general retail – this as an issue of contention under Draft B given voter repeal of the big box zoning (options to remove square footage entirely or conditional use permits above 50,000 sq. ft)
- Logging; not specifically addressed in Draft B but fairly restrictive in Draft C (options leave as is, light up allowing more districts, fold into agricultural uses, separate log yards, log extraction, and/or define it more clearly)
- Need to inventory uses that will be ‘grandfathered’. Question includes what about dormant uses, past uses etc.
- Resource extraction and processing: onerous restrictions. Suggestions: separate into categories based on quantity (e.g. gravel yards)
- Remove 3,3(b)2() or adjust number – the dimensional standards for limited uses. Question is what benefit does this serve?
- Cluster options 4.4 (b) (1) to minimize visibility from highway which could be a deal-breaker for the agricultural community. Suggested to remove.
- Planning Board duties are not consistent throughout the administrative procedures.

Commissioner Grandstaff asked if the Planning Board had any comments. Planning Board Member Ben Hillicoss stated Shaun has summarized their concerns. Brian of the Casey Group stated they did not have full agreement in their group but Shaun has summarized the other concerns.

Commissioner Rokosch asked if the Right to Farm and Ranch Board gave any input. Shaun stated they did not.

Board discussion and decision on Draft C/red flag issues.

- **References to building permits – Board’s consensus is eliminate any references to building permits.** Commissioner Rokosch noted the building permits are noted on page 21-Section 5.4 A. It was agreed to strike all of those notations.
- **Setbacks – Board’s consensus is that setbacks apply to buildings**
- **Darby – Board’s consensus to strike the Darby School District entirely**
- **50,000 sq foot threshold – Commissioner Grandstaff noted due to the transition, should this be changed to 60,000 sq foot which is what the City currently has?** The City also has variance procedure. Commissioner Chilcott stated with the repeal of Resolution No. 1844 the county cannot zone something that has been overturned within two years; that time frame is November 2008. Commissioner Grandstaff stated the point is to be compliant with the City’s regulations.



Commissioner Chilcott asked should we do this only within the Hamilton growth area or should we check with Stevensville. Commissioner Rokosch noted on page 5 they need to be compatible with the zoning ordinances of the municipalities. Commissioner Grandstaff suggested they eliminate this altogether since it is addressed on Page 5 under B. Commissioner Chilcott suggested they strike the definition of 'General Retail Sales and Service' which defines the site between 15,000 and 50,000 sq feet of floor area. Shaun stated page 5 is a general guideline – not to be in conflict but not the same specifics. He stated the conditional use permit would work the best. Commissioner Driscoll suggested they look at each one case by case. Shaun stated then that would include all of those retail definitions. Page 33 addresses 'Neighborhood Retail Sales and Service for those being less than 15,000 sq. ft.' Commissioner Chilcott asked what is the trigger for the conditional use permit and do we do one for everything? Commissioner Rokosch stated anything over 60,000 sq. ft. Commissioner Rokosch stated if you want some flexibility for where they are, it needs to be on a case by case basis. **The Board concurred to utilize a Conditional Use Permit for anything above 60,000 sq. feet.**

- **Logging – The Board concurred to change logging to log yards, logging is a separate use; allow in all districts.**
- **Inventory uses that will be grandfathered – The Board's consensus is that the burden of proof is on county/complainant in order to show it did not exist prior to the adoption.**
- **Resource extraction and processing uses – (special permitting for more than extracting 10,000 yards). Discussion included gravel, mining and top soil. Planning Board Member Chip Pigman stated they should be liberal about the use but be specific on the quantity. The Board's consensus is to separate by volumes established in state law. Below that threshold; be allowed in all districts. Above that threshold; conditional permit is required. Also to remove top soil from this definition.**
- **Dimensional standards – Board's consensus to strike it**
- **Cluster Option – Board's consensus to list this as an area for further input.**
- **Planning Board duties – Commissioner Chilcott stated the Commissioners can delegate that authority to be a policy. He suggested the Planning Board make a recommendation and the Commissioners will hold the public hearing with the decision to be with the County Commissioners. (Table 5.1) Any appeal would be through the courts. Decision to place this to the other columns of concern.**

The Board then started a page by page review of Draft C.

- **Page 4 – Commissioner Chilcott under purpose for (5) how do they measure the economic base of the county? Commissioner Grandstaff asked don't they meet that goal by establishing commercial and industrial districts? Commissioner Chilcott stated the Three Mile area only showed one business, but others will crop up. Commissioner Driscoll suggested they use this as a guideline, i.e., trying to build that out as a mission statement. Commissioner Chilcott stated someone could say the zoning is to build up an economic base and if some one is denied, then the applicant can say the county is not following our own regulations.**



Commissioner Rokosch stated they could tweak this to cite compatible economic components. Commissioner Grandstaff stated this does not mean a deal breaker. Commissioner Driscoll stated #5 is just one piece to the purpose. Commissioner Grandstaff stated this does not have a place in the zoning regulations.

Commissioner Rokosch disagreed. Commissioner Driscoll stated she wants to see this promoted. Commissioner Chilcott does not want to see scenic beauty utilized in order to deny a business.

- Page 4 – Under (6) discussion included to strike (2-7) and stick with (1) being left. Commissioner Chilcott stated these statements are immeasurable and they can cause problems. Consensus to come back this Section 1.3 on page 4.
- Page 5 – Under 1.7 for grandfathered conditions – Commissioner Chilcott stated they need to consider the stream side setbacks. Commissioner Chilcott also stated he does not like the 40 acre parcel for agricultural. He asked about the small lot option, because the 40 acre parcel needs to have a potential for more than one home site. He stated the 10 acres should be the lowest density and be clustered. Shaun stated this would allow a cluster with four houses and have 36 acres open. Commissioner Chilcott suggested going 1 for ten and cluster allowing the bonus of open space. Commissioner Rokosch stated that might be more density than what his view is, particularly up the Sapphire Ridge. Commissioner Driscoll asked what reasoning the Right to Farm and Ranch Board utilized in this issue. Commissioner Chilcott replied protecting the dry lands. Commissioner Rokosch stated the county must give due considerations for areas at build out in regard to public services. Currently there is an application for the Sapphire Ridge which would affect the public services. Commissioner Chilcott suggested doing that in the subdivision regulations. Commissioner Rokosch stated zoning is the place to deal with this issue. Commissioner Driscoll stated if the Right to Farm and Ranch Board had a reason, she would feel uncomfortable taking this off the table. Commissioner Chilcott stated many farmers are good stewards of the land, and it is not right for us to tell them they can not extract value out of their lands. If this is addressed in the subdivisions regulations, then they could address the services i.e., the mitigation for building the roads. Commissioner Grandstaff suggested they come up with another formula and give the farmers/agricultural producers more options. Commissioner Rokosch noted they need to address bonus lots. Commissioner Grandstaff stated they need to give large land owners more options by developing another formula. The Board concurred. Commissioner Chilcott noted the orchard tracts are 9-11 acres, not 10; thus use a fudge factor of 10%.
- Page 6 – Commissioner Rokosch stated there are no commercial and industrial districts in the classifications established. Shaun stated there is a rural and urban districts for densities.
- Page 9 – (d) iii – Commissioner Chilcott asked about contiguous tracts. Shaun stated those that are interested in open lands, show interest in wildlife and trails. However, it does not have to utilize the word contiguous. Agreed to move this to a further discussion list.
- On pages 11-13 - Commissioner Chilcott suggested they clarify that conditional use does not have any thing to do with grandfather use. And move accessory uses to table on page 13

- On page 14 - Commissioner Chilcott suggested they do not limit the rural accessory uses. On use standards – (d) inoperable vehicles screened by a fence? He suggested this be consistent with the regulations and or Administrative Rules.
- On page 15 - Commissioner Chilcott wants dimensional standards struck
- On page 17 - Commissioner Driscoll asked about cluster development in regard to sewer. Commissioner Chilcott suggested the increase in density gives a bonus of lots if they have public water systems.
- On page 18 - Section 4.5 Commissioner Chilcott noted they need to note they are working on the language for this development rights.
- On page 18, Section 4.6 - lighting the American Flag has to be lit from the ground up.
- On page 22 - under variance (f) Commissioner Chilcott does not like the term reasonable use. Concurred to strike 'reasonable'.
- On property rights – Commissioner Chilcott addressed Supreme Court ruling for what a taking is and isn't. He asked County Attorney George Corn if the county is more generous in their takings. George stated that addresses economic and viable uses. Commissioner Chilcott suggested extraction of the land is part of that taking. Commissioner Driscoll asked how they figure that out. Commissioner Chilcott stated many people have concern of the value of land. While the community might like the open land, they need to recognize the value of extraction for the land owners. He stated this is a Red Flag issue to him.
- On page 25 under minor and major PUD's; Commissioner Driscoll asked how those are defined. Shaun stated there are criteria for minor and major adjustments.
- Commissioner Rokosch noted PUD is not within the definition page. (Planned Unit Development).
- Commissioner Chilcott asked about the language to amend these regulations. Noted it was found on page 23. Commissioner Chilcott suggested they give the citizens some comfort. He stated the people need a high level of comfort of these things not being added to without a protest period. George stated he is not certain and does not want to give an off the cuff answer. Commissioner Chilcott stated he wants a way not to allow the document to expand without citizen participation, and a sunset clause for 6-9 months would work. Commissioner Rokosch stated they need to see if it is going to work or not. Commissioner Chilcott suggested the adoption have a sunset clause pending a vote by the citizens. This will give the Commissioners a chance to see how the regulations will work.

Public comment was then called for as follows:

Susanna McDougall addressed Section 4.6 lighting. She would like to see this in all zones, not just rural. She lives outside the urban area and likes the night sky. Commissioner Chilcott asked about calving areas being lighted from an elevation. Susanna wants all lights shining down even for the farmers in the calving areas.

Cathy Kulonis of Lone Rock area stated she does not want any more government intrusion and will do what ever they can do to have the November 7<sup>th</sup> deadline dropped. She stated they should take option #1.

Gary Zebrowski stated he gives F grade for all of this draft work. Draft A was an invasion, Draft B was generic aberration and Draft C is aggressive and wrong. He believes the people should have the right to vote on any law the Commissioners intend to put on the citizens. He stated the Commissioners should not rush between now and November when '1 for 2' expires. He stated the citizens are gaining momentum and lean more toward no zoning. Whatever the people have to do they will do.

Steve Slagel reiterated Gary's comments. One thing that bothers him is not having a density map along with the drafts because people will not know how the regulations will apply to them. He stated he and many others also have a fear of the amendment provisions, in other words will they see a proliferation of amendments? If so, we will be right back to Draft B and Draft A. He endorses Commissioner Chilcott's comments in limiting the ability to do amendments.

Chris Daniel had a prepared statement noting Commissioner Rokosch, Commissioner Driscoll and Commissioner Grandstaff are holding steady to their campaign promise of zoning. Citizens do have expectations of the professionals working at the county. He noted the county is about to once again move forward with adopting an option that fits their agenda. He has visited with thousands of people; they believe the Board of County Commissioners has betrayed their trust by spending countless hours to push their agenda 'or no growth' which is being disguised as zoning. One example is by utilizing the Brainerd Association and scaring people that water supply is in jeopardy when DNRC says we have good aquifer. The Brainerd Association uses their professional position of power to intimidate people. He also stated the new County Commissioners are biased and unjust. He stated the attitude of the new Commissioners has proven to be unreasonable, so groups have sprung up to protest what is occurring. Recently the Board of County Commissioners adopted mantra is 'environmental sustainability', which really means no population growth. Chris felt the new Commissioners are doing nothing to represent the other parts of the population and they should be representing everyone.

Daniel Cox asked a legal question about subdivision control and use of land. When he reviews the zoning document, it addresses the division of land. He suggested they strike all of that land issue out of the document. George stated his office did not produce Draft C. Dan stated the Montana Code (76-3) allows subdivisions not 76-2. George stated his recent memo shows legal authority given to the counties under Montana Law. Dan suggested he read his own memo; page 2, number 2. Dan asked if MCA 76-2-203 allows subdivision divisions, and if so could they be enacted under 76-3. George stated they are talking about cluster options. Dan stated it should be in a different document. George stated he disagrees with Dan.

Dan Floyd addressed option #4. He stated the Board of County Commissioners are trying to do this by November so subdivisions are stopped. He stated any Judge will look

at the intent. Dan stated he will be first to file a lawsuit if this is 'ram rodded' through. He gave the Commissioners information on sustainability, which goes back to Commissioner Chilcott's comments. Dan noted Commissioner Chilcott also commented on protecting the value of land; noting the second zoning goes in and the appraisal reduces their value. He stated there is a current lawsuit because that is in the document. Dan felt the Planning Board is the most unqualified group to take the classifications and turn them into zoning maps. He suggested they should let the professional planners do that. Dan also addressed zoning districts stating the regulations must be uniform in a district (size, setbacks etc.) when in fact you have a mish-mash within the county. He also addressed the protest issue.

Craig Wiese stated his concern is the right to vote, especially on such a huge issue that has an impact. He spoke with the U.S. Justice Department about not being able to vote. He attended the CPC meetings. The Three Mile CPC asked to vote on this issue and they were told it was not an option like Darby had. There may be a major issue as his voting rights are being denied. Commissioner Chilcott noted when Lone Rock asked to vote, the deadline for ballot language was already passed. Darby made it through to the deadline. Craig stated he is a county citizen and this is county wide zoning. How does this come about that they elect people to represent all of their rights and then they are not represented? Some can vote and some can't which turns this into a red flag issue. Can't we just have the right to vote on this large issue?

Joanne Hosko stated she is a member of Right to Farm and Ranch Board. She stated they were not officially notified of this meeting. On July 17<sup>th</sup> she received copy of Draft C and that concerns her. She heard the Casey Group say they were stake holders – we are all stake holders. She asked who are the Casey Group and what is their standing in the county. She asked what is the land use subcommittee? It was noted the subcommittee of the Planning Board was sanctioned to work on these regulations as there were five Planning Board members who asked the Commissioners if they could start on something. Joanne stated the farmers are the ones who did not sell out to the Developers, nor did they and cut and run during bad times. She asked whose farm are you a part of? She stated the Commissioners cannot expect the farmers to not be emotional about being land poor as that is their asset and now it looks like that asset is going to be taken away from them. She thanked the Commissioners for taking out the logging as she did not want to have to burn the trees next. She stated people are pretty split on these issues, but remember majorities can be pretty slim. The majority of the Right to Farm and Ranch Board are not the majority of farmers. Some are not here tonight because they are cutting hay or working their cows.

Dewey Baker has an interest in what is going on. He has now seen all the draft regulations with Draft C being presented tonight. He has been to CPC meetings and they discuss one or two things all night long. When the Board of County Commissioners does not know what something means they ask Shaun. Shaun always answers with an 'I Think'. This is not good enough, as everyone needs to know what all of these regulations mean. Nobody, not even the Commissioners understand it. Now we are facing something that affects every single resident of Ravalli County. If it affects us, we

need the right to vote and to know what we are voting on. We need to assure every resident the right to input, and let them study the documents until November when they can make an informed decision.

Roger Mikesell appreciates the ability to come to this meeting, but he hardly has the time to come. He has listened today and sees what they do or do not know about the plan. He asked how they can vote on something they do not know about. The residents and the Board of County Commissioners need the time to review this as it makes a decision for the whole valley. Some of the things he read upset him. It all goes back to the 8 Mile Road decision, and the Board of County Commissioners will be thanked at the next election year. One thing that bothers him is the 1 for 40 – the only thing good about dry land 40 acres is putting a house on it. He has tried to farm dry land at numerous times and it does not work. He felt the Board of County Commissioners is missing the boat on the farm land issue. He suggested they define farming where farming can occur, not on rock piles. In order to farm, the farmer has to see a margin for profit and that won't be found on 40 acres. He is 56 years old and his dad is 80 and at this point in their lives they would like to do something with their land. Let the landowners decide what is good for them, not the Board of County Commissioners.

Bruceen Fleenor stated she is thankful she lives in Darby.

Curtis Cook was born here in 1916 and has seen a few changes, some for the good some for the bad. In regard to Draft C, the experts fouled it all up when they decided to call this a resolution. It is a regulation. The zoning must have a resolution of intent and A resolution to adopt. In one paragraph of Draft C they use the words regulations and resolutions. That should be cleaned up as it does not recognize the difference between resolution and regulations. On page 7 Curtis noted the clustering on 10 acre lots. He suggested they look at MCA 76-3-509 which provides for clustering with local options and then by resolution accept this. He stated a lot of the orchard tracts are 20 acre lots so instead of saying less than 20 acres, say 20 acres or less. On page 8 under 2.3 there is no definition of Planned Unit Development. Also the draft should use the wording of the state statute (76-3-102 (10)) 76-3-509(a) addresses the growth policy and the governing body that might adopt regulations addressing cluster development. The regulations must establish a maximum size in the cluster development (d), and number of parcels and establish required minimum size for the area to be preserved. That does not mean a percentage. On page 10 under 2.5; Curtis stated they could specify the density of the zoning district with a map prepared by GIS in one day. On page 13 under accessory uses; there should be some conditions to the caretakers' residence under the categories.

Commissioner Rokosch stated due to the hour and the fact that this time was originally needed for internal review, he suggested they cease public comment and continue with their review. He stated there will be ample time for the citizens to take a fine tooth comb in order to make those adjustments. Curtis stated he will give his comments in writing. Commissioner Grandstaff agreed she would like to move on.

Jan Wisniewski of Darby CPC and Darby Planning Board Member stated Darby did not like any of this, and it seems like everyone is nit picking this and therefore the issue of zoning should be up for a vote.

Public comment was then closed.

**Commissioner Driscoll made a public statement with a motion (see attached).**

**Discussion of this motion then took place. Commissioner Grandstaff then recapped what she understood Commissioner Driscoll's motion to be: that a resolution of intent to adopt would be done by the Commissioners in October and the citizens would have a straw poll vote on November 4<sup>th</sup>, with a 30 day protest period prior to the Commissioners vote. Commissioner Driscoll stated that is correct. Clerk and Recorder Regina Plettenberg stated her concern of an October adoption is that she does not have a detail of how the protests will work. George stated she will have to develop those criteria. Regina stated the protest period will be pretty involved and in October she will be busy with a Presidential election. These are her concerns, plus other departments have specific concerns such as planning for the gap that will occur in zoning. If she receives protests, plus having a straw poll, plus a petition for referendum she does not know how she will handle all of this.**

**Commissioner Rokosch seconded the motion.**

Shaun then presented the hypothetical timeline for implementation of Option 4. He would have to have the completion of the draft regulations by August 1<sup>st</sup> if this time line motion were to occur. Commissioner Rokosch asked if during the hearings they can take public comment for the regulations and maps because in that regard, they would not need a final by August 1<sup>st</sup>. Shaun stated once you have taken something to the Planning Board they should be fairly close to the staff and legal review. Once the public hearing process starts, there is not much chance to make any major changes. Commissioner Driscoll stated the citizens must have something to vote on. Shaun stated the public hearing draft is pretty much the final draft, tweaking for typos is ok, but not substantive. Shaun says the document is not ready for a vote. George stated it is not feasible to get this done between now and November. The Planning Department will be stressed to get anything up to legal muster, and if Clarion is not reviewing this and the planning office is making the review, it will not be a one day off the cuff opinion. Commissioner Grandstaff agrees this time frame for Commissioner Driscoll's motion does not work, so they need to take a vote on this.

**Commissioner Chilcott opposes this motion because three experts, Shaun, Clerk & Recorder and George say this time frame won't work. Commissioner Driscoll asked so when people ask her how they can vote, what does she say? Commissioner Chilcott and Commissioner Grandstaff voted "nay". Commissioner Driscoll and Commissioner Rokosch voted "aye". Motion did not carry.**

**Commissioner Chilcott made a motion to take option # 1 plus to contract out the subdivision review, and giving the citizens a straw vote. Commissioner Driscoll seconded the motion. Commissioner Chilcott stated they have spent a lot of money and to rush it is short selling the process. The Commissioners should take the time to finish. Discussion of the motion:** Commissioner Rokosch stated he believes the Commissioners need to put something in place even with the challenges that have existed all along. There is a version of the map and they have identified the red flags and modified some of the regulations. The issues will take further time as well as the maps, which can be accomplished in the time frame. Basic maps can be put together internally in a short time frame because to define municipalities, sewer districts, rural and agricultural areas with mapping requirements might take one or two more years. Commissioner Chilcott stated the subdivision review fees are paid by the developer. Commissioner Rokosch stated there is still a lot of communication whether they contract this out or not. Commissioner Driscoll asked when a zoning vote goes forward, what does go forward because the people have to have something to vote on. Commissioner Chilcott stated without citizen support, zoning is dead in the water. Maps are critical and you must have that to see what happens to their personal check books and viewscape. The Commissioners are getting closer but the maps must be acceptable. He suggested a resolution of intent to adopt with the normal protest period and then vote. He stated there is no way to do this in November. Commissioner Grandstaff stated that option does what they have been doing for the last 20 years, so they are just putting this off. Commissioner Chilcott argued no people 'want this put to bed one way or the other'. Commissioner Driscoll stated the citizens have been drawing lines and people in municipalities do pay their fair share of taxes. Commissioner Chilcott suggested they take option number one with the final maps which could take up to two years, contract out subdivision review with an adjustment of fees with a straw vote after the maps are done. **Commissioner Chilcott voted "aye". Commissioner Driscoll, Commissioner Grandstaff and Commissioner Rokosch voted "nay". Motion did not carry.**

Shaun stated option three would be to adopt the regulations by November 7<sup>th</sup> but that does not affect the land until the maps are adopted. He stated there is some question about the protest period if there are no maps and he would need to clarify that with George. Commissioner Rokosch stated it would be a jurisdictional district because mapping has not been identified. Commissioner Driscoll asked what the people would vote on if they did not have maps. Shaun stated he does not know what the deadlines are if they do not have a plan. The question is if the Commissioners can adopt Draft C or D. Regina asked what staff she would utilize because they are busy with the general election.

Commissioner Grandstaff asked about the Option 4. Shaun stated this would be a symbolic gesture because they do not have any maps. Public hearings and protest period would not occur because the Commissioners have not adopted the regulations and mapping. Regina stated she has some unknowns in the protest period, such as can she deputize people; and 'to heck with the names of property owners', because there could be too many to count? Commissioner Rokosch stated the protest period would start in November with the 30 days and this time period has been here all along. Regina stated



she had nothing to do with this proposed time line and the county attorney's office has not had time to answer her questions.

Commissioner Grandstaff recapped Regina's concern and Shaun's comments, as well as the County Attorney's need to review these regulations. She stated now, she is thinking option #2 might be the best option.

**Commissioner Grandstaff made a motion to adopt option #2 by November, but not formally adopt regulations. Commissioner Driscoll seconded the motion.**

**Discussion of the motion:** Commissioner Chilcott stated adopting option # 2 over #1 is no difference. He stated if the regulations are not right they are going to rush again and that would be a good incentive, but there is a momentum to keep this going. Commissioner Grandstaff stated this is a huge concession on her part. Commissioner Chilcott stated the maps are needed to complement the regulations, and they will still have the time crunch with the planning staff, therefore he would advocate subcontracting out the subdivision reviews and amending the fees to accommodate that.

Commissioner Grandstaff stated no tax money is being spent on subcontracting the subdivision review. Commissioner Chilcott stated option 2 does not allow for a citizen vote. Commissioner Grandstaff stated she just wants these regulations completed by November and outsourcing the project review with the developer paying the fees would not cost the taxpayers any money. Shaun stated that option is fairly in line with what they proposed in early July. The regulations would be settled and then they would start on the mapping process in October. Commissioner Grandstaff felt Regina's concerns cannot be taken lightly and meeting the November 7<sup>th</sup> deadline is 'not do-able' to the Clerk and Recorder. Shaun stated they would not adopt anything until the maps are done so the protest would not take place until the resolution is done. He also stated he does not know when the deadlines are in order to put things on the ballot. Under option #2 there is an internal deadline to finish the regulations. Regina stated she needs ballot language by August 21<sup>st</sup>.

Commissioner Chilcott stated so we are not adopting them, rather the incentive is to get them completed by November? If so, that is a symbolic deadline. Commissioner Grandstaff stated if the subdivision review is outsourced it will take a tremendous amount of time off of planning. Commissioner Chilcott stated once we open the mapping, he will be shocked that they do not have to go back to the regulations and blend them. Why not amend option #1 to include the maps?

Commissioner Grandstaff stated the advantage is to put this draft out for public review, because maps are not part of the motion. Regina, Shaun and George stated they cannot accommodate that statutory time frame. At least if planning outsources project review, and they put the regulations out to public comments, they might be able to finish by November 7<sup>th</sup>. Renee Lemon was now present. Renee suggested the motion not reflect any outsourcing of the project reviews as they have that option at any time.

Commissioner Grandstaff reiterated her motion which is to complete the regulations but do not adopt them.

Commissioner Chilcott stated the fatal flaw is that maps do not exist. When the maps exist they will have to blend the regulations with the maps. We need do it right so it does not fail.

Commissioner Driscoll stated this motion sets a time frame for this, and people need to know what the time frame is, this would just set it out there again.

Commissioner Rokosch stated they are responsible for the allocation of resources and there are challenges that exist. Commissioner Grandstaff stated this is moot because Regina cannot meet them. Commissioner Rokosch suggested hearing what those specifics are, i.e., could they hire more staff etc? Commissioner Grandstaff stated the experts say we cannot do it in this time frame. Commissioner Rokosch stated that is based on assumptions that are not clear to him unless they discuss what the options are. Commissioner Grandstaff and Commissioner Chilcott stated they are clear to the experts.

**Vote: Commissioner Grandstaff and Commissioner Driscoll voted "aye". Commissioner Chilcott and Commissioner Rokosch voted "nay". Motion did not carry.**

Discussion continued in regard to Regina's time line for protest and how she checks the 28,000 parcels. The audience then began to say the Commissioners should put the regulations on the November ballot, and give them their right to vote.

Commissioner Chilcott suggested they take option #1 with the goal of getting regulations in a final draft in November, give the citizens the right to vote in a straw poll on the regulations and continue on with the mapping. Commissioner Driscoll stated it is important for the people read and understand what we are doing so they will know what they are voting on. If they don't know what they are voting on in a straw poll she will not know what they want.

**Commissioner Rokosch made a motion adopt option #2, complete the regulations by November 4<sup>th</sup> (with no maps) have a straw poll vote on the jurisdictional area defined at the next general election (of June 2010). Commissioner Rokosch then withdrew his motion.**

**Commissioner Chilcott made a motion to complete the Draft regulations by November, then work on the completion of maps, and at some point do a resolution of intent to adopt the regulations and maps, institute the protest period and schedule an advisory vote by the citizens at the next regularly scheduled election of Ravalli County. Commissioner Driscoll seconded the motion. Discussion centered on having a deadline for the maps. Commissioner Chilcott stated the regulations are pretty easy, but it is important to put the maps on the wall because the citizens will become more involved. When they see the maps and their properties the whole**

**issue becomes more than theory. He stated it is important not to rush this. Commissioner Grandstaff asked is this a straw poll vote. It was noted it would be advisory (straw poll vote). Commissioner Driscoll and Commissioner Chilcott voted "aye". Commissioner Grandstaff and Commissioner Rokosch voted "nay".**

Commissioner Grandstaff suggested option #1 with no citizen vote. Curtis suggested leaving it where it is and just keep going forward.

**Commissioner Grandstaff made a motion to adopt #1, ignoring November all together and keep working on the regulations and maps. Commissioner Chilcott seconded the motion. Commissioner Driscoll, Commissioner Grandstaff and Commissioner Chilcott voted "aye". Commissioner Rokosch voted "nay". The motion carried.**

## Issues to Address with BCC on Wednesday, July 9, 2008

### **a. Clarify Direction to Clarion on Draft C**

- i. General confirmation of BCC direction
- ii. Some objection to rural 40-acre zone
- iii. Some concern about loss of 5-acre zone
- iv. Some concern about urban residential density
- v. Keep takings avoidance procedure
- vi. Keep small lots incentive
- vii. Rework clustering starting with Right to Farm and Ranch Board proposal
- viii. Leave TDRs out, but work on it if timeline is extended
- ix. No significant support for table of prohibited (not permitted) uses
- x. No significant support for higher densities in rural zones if water and sewer provided
- xi. No specific changes suggested to PUDs

### **b. Unresolved Issues (and suggestions about how to address them)**

*Keep in mind that we are trying to simplify and focus on what appear to be the most important items, and that any assistance from working groups will still require staff involvement and support.*

- i. Develop and refine incentives for large, rural landowners; try to strike a balance between extracting value and maintaining operations. Options may include small lot developments, cluster developments, changes to subdivision regulations to expedite review and streamline application and standards for cluster developments, Purchase of Development Rights and Transfer of Development Rights (the latter is primarily addressed below).

**How** – Clarion will address zoning-related provisions in Draft C, then have staff work with Casey's Group and/or Right to Farm and Ranch Board on refinements and other provisions.

- ii. Develop one or more interlocal agreements among (1) incorporated communities (Hamilton and Stevensville); and (2) unincorporated areas that have community-based sewer and water districts.

**How** – Build on the proposals by the City of Hamilton and go one community at a time. Keep in mind that Casey's Group is interested in this topic and has developed some ideas to make this effective. This probably needs to be done parallel with the regulations to ensure that the urban densities are not problematic for the towns. Staff and legal counsel time will likely be needed to draft agreements.

- iii. Complete a Transfer of Development Rights study and develop appropriate TDR program

**How** -- The Casey's Group might be one forum to help guide this effort, but it will require hiring some technical experts for the feasibility study and staffing support to develop the appropriate regulations.

- iv. Develop and implement a strategy to complete the maps.

**How** – Staff develops a methodology (which is underway), in consultation with Clarion and other technical folks, and seeks input and advice from Casey's Group to refine and affirm the methodology.

### **c. Options for Fall 2008**

- i. Ignore November altogether – just keep working on both regulations and maps.
- ii. Complete regulations by November but do not adopt them.
- iii. Complete and adopt regulations by November but not maps (no regulatory effect until maps are adopted)
- iv. Complete and adopt regulations with "default" density provisions (irrigated agriculture, non-irrigated agriculture, close-to-cities, to remain in effect until maps are adopted or sunset date arrives).

COMMISSIONER KATHLEEN DRISCOLL

July 23, 2008

Phone: 375-6510

Statement on the future of countywide zoning:

- 1) I move that the commission schedule a vote by the commissioners in October as to whether the Draft C zoning regulations should be put in place when the interim zoning expires on Nov 7<sup>th</sup> or as soon after that time as our planning department can implement them. This time frame will allow for two months of public input on the Draft C regulations. A map with a general outline of the public's four different zoning areas as described in Draft C should accompany the regulations. This map will be used by the commissioners for subdivision decisions until the more detailed maps are produced.
- 2) I also support that we put the above zoning issue on the November 2008 ballot as **a straw poll vote. This straw poll vote** should include all of the valley's registered voters, including those within the municipalities. This will ensure that **the maximum number of citizens will have input on this incredibly important issue.**

Reasoning:

I am proposing **these votes** because I think it is in all of our best interests to **have a record of** what the commissioners and majority of the citizens and landowners want.

I expect that with further public input over the next two months, Draft C of the county wide zoning regulations will be acceptable to me.

Based on two different votes by the citizens of Ravalli County, I have in good faith proceeded with a countywide zoning plan. In November 2006 voters passed an initiative limiting subdivisions to one house per two acres for two years while commissioners prepared a plan. In June 2007 I was elected by a majority of the voters to the county commission. During my campaign I vocally and clearly supported countywide zoning.

Based on those votes, for the past year, the commission and significant numbers of citizens have worked diligently to develop a plan for countywide zoning. I believe Draft C protects private property from unwelcome surprises "next door", while at the same time gives property owners the flexibility necessary to use and develop their land. It is time for the commissioners to vote and let the public know that their elected officials have heard their mandate.

While I believe I was elected because a majority of voters wish to proceed with countywide zoning and still believe it is the best way forward, I understand that there are a number of citizens who are concerned about the prospect. I believe that we should give the citizens another voice at the polls this November. It should include all county citizens because, whether positive or negative, all of us feel the financial effects of growth. It will

also enable all of us to have a **clearer** understanding of how our neighbors and friends feel about the issue.

By Law, land owners have a 30 day period for protest, which will commence upon the commissioner's passage of a resolution of intent to adopt zoning. This 30 day period would coincide with the general population's vote and will provide all of us with further information on how that portion of the valley's citizens feels about zoning.

# DRAFT C

## RAVALLI COUNTY

### ZONING

### REGULATIONS

**NOTE:** THIS IS A PRELIMINARY VERSION OF THE DRAFT C ZONING REGULATIONS. THIS IS INTENDED FOR **INTERNAL REVIEW** BY COUNTY STAFF AND BOARDS. FOLLOWING INTERNAL REVIEW, A PUBLIC REVIEW VERSION WILL BE RELEASED. IN THE MEANTIME, ANY CITIZEN REQUESTING A COPY OF THIS DOCUMENT MAY OBTAIN ONE BY CONTACTING THE RAVALLI COUNTY PLANNING DEPARTMENT.

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# CHAPTER 1: GENERAL PROVISIONS

## 1.1. TITLE AND AUTHORITY

This Zoning Resolution is adopted under the authority of Montana state statutes (MCA 76-2) and shall be cited as the "Zoning Resolution of Ravalli County, Montana." It shall be referred to in this document as "this Zoning Resolution."

## 1.2. APPLICABILITY

A. This Zoning Resolution shall apply to the all lands, uses, and structures in the entirety of unincorporated Ravalli County, except that it shall not apply in:

- (1) Those legally created zoning districts that area commonly known as "Voluntary Zoning Districts" for which regulations had been adopted by the Board of County Commissioners as authorized under Title 76, Chapter 2, part 1 prior to the adoption date of this Zoning Resolution.; and
- (2) The incorporated towns and cities of Darby, Hamilton, Pinesdale, and Stevensville (including the extraterritorial zoning area outside of Stevensville).

The resulting area may be referred to as the Ravalli Countywide Zoning District.

B. Except as otherwise provided in this Zoning Resolution, after the effective date of this Zoning Resolution, land, buildings, and premises in any zoning classification shall be used only in accordance with the regulations established by this Zoning Resolution.

## 1.3. PURPOSE OF ZONING RESOLUTION

### A. PURPOSE

The purpose of this Zoning Resolution is to:

- (1) Implement and be consistent with the Ravalli County Growth Policy.
- (2) Insure that the land uses of Ravalli County are properly situated to one another, provide adequate space for each type of use, and prevent incompatible uses.
- (3) Control the density of development in each area of the county so that property can be adequately and efficiently serviced by public facilities such as roads, schools, recreation, and utility systems.
- (4) Direct new growth to appropriate areas.
- (5) Preserve and develop the economic base of the county.
- (6) Protect and maintain the value of land and other property.
- (7) Promote sustainability in future development.

**B. CONSISTENCY WITH STATE REQUIREMENTS**

As required by state law, this Zoning Resolution has been made with reasonable consideration, to the character of the lands covered by this Zoning Resolution and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area. In addition, the provisions of this Zoning Resolution are, as nearly as possible, compatible with the zoning ordinances of the municipalities within the county.

**1.4. SEVERABILITY**

Should any section or provision of this Zoning Resolution be declared unconstitutional or invalid by a court of competent jurisdiction, the decision shall not affect the validity of the Zoning Resolution as a whole, or any part of the Zoning Resolution, other than the part declared to be unconstitutional or invalid.

**1.5. CONFLICT WITH OTHER LAWS AND REGULATIONS**

Whenever the requirements of this Zoning Resolution are at variance with the requirements of other lawfully adopted rules, regulations, or resolutions, the most restrictive or that imposing the higher standards shall govern.

**1.6. PENDING APPLICATIONS**

- A. Development applications that were filed and were deemed sufficient by the Planning Director before the adoption date of this Zoning Resolution may be processed, and decisions on these applications may be made, pursuant to the laws in effect on the date that they were filed. If any such application is denied by the county pursuant to the existing laws and regulations, any later filing of an application or amended application for any part of the same property shall be required to comply with this Zoning Resolution.
- B. Nothing in this Zoning Resolution shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Zoning Resolution and on which actual building construction has been carried on diligently. Actual construction is defined to include the placing of construction materials in permanent position and fastening them in a permanent manner. Where excavation, demolition, or removal of an existing building has substantially begun preparatory to rebuilding, the excavation, demolition, or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

**1.7. GRANDFATHERED CONDITIONS**

A "grandfathered condition" is a lot, structure, or use of land that was lawful at the time this Zoning Resolution was adopted, but that would be prohibited or regulated under the terms of this Zoning Resolution. Grandfathered conditions remain legal, may continue to exist and operate, the land or structures in which they operate may be sold or purchased, and the buyers may continue to use the lot, structure, or land use.

**A. GRANDFATHERED LOTS OF RECORD**

Every lot of record existing on the effective date of this Zoning Resolution, may be developed with structures or uses as allowed in the zoning classification where it is located even if the lot does not meet the minimum size, dimensions, or other requirements of this Zoning Resolution, subject only to the maximum height controls in that classification.

**B. GRANDFATHERED USES**

Every lawful use of land existing on the effective date of this Zoning Resolution, may be continued, may be expanded on the property, and if the use is stopped voluntarily it may later be restarted. The use may be continued after sale of the property, and a business on the property may be bought and sold and continue in operation.

**C. GRANDFATHERED STRUCTURES**

Every lawful structure existing on the effective date of this Zoning Resolution may continue in use, may be expanded on the property, may be rebuilt if damaged regardless of the extent of damage, and may be bought and sold and continue in use.

## CHAPTER 2: ZONING CLASSIFICATIONS

### 2.1. ZONING CLASSIFICATIONS ESTABLISHED

This Chapter establishes county zoning classifications and contains a statement of purpose for each classification. Chapter 3, *Use Regulations*, identifies the uses allowed within the classifications and Chapter 4, *Development Standards*, contains dimensional and other development standards that apply to development in the zoning classifications. The following zoning classifications are established.

Table 2.1 Zoning Classifications Established			
Type	Abbreviation	Name	Maximum Density (lot/acres)
Rural	RA-40	Residential-Agricultural 40	1/40
	RA-10	Residential-Agricultural 10	1/10
	RA-5	Residential-Agricultural 5	1/5
Transition	R-1	Low Density Residential	1/1
	INS	Institutions	n/a
	PUD	Planned Unit Development	n/a
Urban	RU	Urban Residential	As reported by water and sewer
	C	Commercial	n/a
	IND	Industrial	n/a

## **2.2. RURAL CLASSIFICATIONS**

### **A. RESIDENTIAL-AGRICULTURAL 40 (RA-40)**

The average density in this classification is one dwelling unit per 40 acres, but additional dwelling units are available through clustering (see section 4.4). It is intended for non-irrigated farm and ranch lands, lands with poor soils, lands located far from existing roads and infrastructure, and constrained lands such as floodplains, steep slopes, and river bottoms. This classification encourages the continuing use of land for natural resource production and for low-density residential use that does not require significant infrastructure construction or maintenance.

### **B. RESIDENTIAL-AGRICULTURAL 10 (RA-10)**

The average density in this classification is one dwelling unit per 10 acres, but additional dwelling units are available through clustering (see section 4.4). It is intended to preserve the integrity and natural qualities of the rural environment; assure the continuation of the open and rural character of the classification, provide for agricultural, recreational, orchard, and residential uses; and limit development densities in order to reduce infrastructure construction and maintenance costs.

### **C. RESIDENTIAL-AGRICULTURAL 5 (RA-5)**

The average density in this classification is one dwelling unit per 5 acres. This classification is intended primarily to provide for limited development in rural area that have already been divided into so-called "orchard tracts" of less than 20 acres on the adoption date of this Zoning Resolution and where significant splitting of those tracts into smaller parcels has already occurred. This classification allows for single family dwellings, agricultural uses, and associated accessory buildings and uses.

## **2.3. RURAL OR URBAN ("TRANSITION") CLASSIFICATIONS**

### **A. TRANSITION RESIDENTIAL (R-1)**

The average density in this classification is 1 dwelling unit per acre. It is intended for rural residential areas close to incorporated cities or sewer districts that will come under pressure for more intense residential development. This classification provides for a transition between low density rural residential areas to more urbanized areas, and is not intended for designation in areas of the county that are located far from incorporated towns or where most of the surrounding land is divided into lots larger than 1 acre.

### **B. INSTITUTIONS (INS)**

This classification allows for a variety of public and quasi-public institutions, facilities, and other governmental uses. It recognizes buildings and facilities that serve broad public needs. Proposed new structures and associated facilities, such as playing fields and other recreational areas, must be close to existing or proposed infrastructure, such as water, sewer, roads, and service facilities.

## **C. PLANNED UNIT DEVELOPMENT (PUD)**

### **(1) Purpose**

This classification is a form of negotiated zoning intended to offer flexibility in lot size, density, setbacks, and subdivision standards in return for additional features that protect the environment, protect rural character, or provide more community amenities than would otherwise be required. PUDs may not be used to insert densities found in urban zone classifications into rural areas or to insert rural densities into areas planned for urbanization or annexation. A PUD must be applied for and approved for all proposed new development that would create 50 or more residential lots.

### **(2) Objectives**

A PUD proposal shall be designed to achieve one or more of the following objectives:

- (a)** Preserve agricultural lands and natural, historic, and cultural features through strategic and planned location of subdivided lots;
- (b)** Allow development of a wider variety of housing types and housing ownership types, which may include affordable housing, than would otherwise be possible;
- (c)** Create and preserve open space, beyond what would otherwise be required, for recreational use and aesthetic enjoyment; or

### **(3) Design Standards**

A PUD must meet the following standards:

#### **(a) Rural PUD**

If a majority of the land adjacent to a PUD parcel is in zoning classifications labeled "rural" in Table 2.1 or in protected open space (a "Rural PUD"), then the overall density of the PUD parcel shall not exceed the 200 percent of the highest density available on-site for other similar uses in the "rural" or "transition" zone classifications. The minimum size of a Rural PUD shall be 40 acres.

#### **(b) Urban PUD**

If a majority of the private land adjacent to a PUD parcel is in zoning classifications labeled "transition" or "urban" in Table 2.1 or is located in an incorporated town or city (an "Urban PUD"), then the overall density of the PUD parcel shall not exceed 150 percent the highest density available on-site for other similar uses in the "transition" or "urban" zone classification categories. The minimum size of an Urban PUD shall be 10 acres.



**(c) Community Benefits**

The PUD shall provide community benefits beyond those otherwise required for similar development under the Zoning Resolution and the Subdivision Regulations. Community benefits may include but are not limited to community open space, affordable housing, community facilities such as parks and trails, and preservation of scenic vistas or ridgelines from future development. All public utilities shall be placed underground.

**(d) Common Open Space**

If common open space is provided, it shall meet the following requirements.

- i. A Rural PUD must include at least 40 percent of the net acreage of the subject property as open space, exclusive of areas included in individual building lots and other dedications.
- ii. An Urban PUD must include at least 15 percent of the net acreage of the PUD parcel as open space, exclusive of areas included in individual building lots or other dedications.
- iii. Open lands shall be in contiguous tracts located to include sensitive environmental lands, wildlife habitat, active agricultural lands, riparian areas, or scenic ridgelines or vistas, and shall generally not be located in isolated strips or islands.
- iv. A deed restriction, covenant, or other legal mechanism shall bind the PUD owners to maintenance of common areas in perpetuity.

## **2.4. URBAN CLASSIFICATIONS**

**A. URBAN RESIDENTIAL (R-U)**

The maximum density in this classification shall be determined by the commitments for municipal sewer and water for the development. It is intended to accommodate high concentrations of dwellings in areas that have all critical infrastructure in place, such as public systems for domestic water supply or wastewater treatment, as well as adequate streets and roadways, schools, and other public facilities. This classification is intended to be designated only in close proximity to incorporated towns or unincorporated town centers, and only after consultation with the government of such towns, if any.

**B. COMMERCIAL (C)**

This classification is intended to accommodate business and commercial uses that require space and access to major roads. The classification accommodates these uses while preserving the traffic carrying capacity of the road system and the desirability of abutting land for residential development. No business, trade, or industry shall be permitted that is noxious or offensive by reason of emission of odor, dust, smoke, gas, vibration, or noise, or that imposes significant hazards to life or property.

**C. INDUSTRIAL (IND)**

This classification is intended to provide for efficient and functional operation of heavy fixed equipment or machinery, manufacturing, processing, and other industrial uses in appropriate locations. Industrial uses that produce noise, smoke, dirt, vibration, glare, or similarly obtrusive nuisances shall be regulated to minimize the impact on the public health and safety. These activities generally require reasonable access to major transportation facilities, need extensive open storage and service areas, and generate heavy traffic.

## **2.5. ZONING MAP AND BOUNDARIES**

**A. OFFICIAL ZONING MAP**

The zoning classifications described in this Chapter 2 shall be applied to the land as shown on the map entitled, "Ravalli County Zoning Map," which shall be certified by the Board of County Commissioners, incorporated into this Zoning Resolution by reference, and filed with the Ravalli County Clerk and Recorder. The digital version of the Ravalli County Zoning Map shall be available at the Planning Department. Any amendments to the Ravalli County Zoning Map shall be adopted pursuant to procedures in Chapter 5, *Administration and Enforcement*.

**B. INTERPRETATION OF ZONING CLASSIFICATION BOUNDARIES**

If there is uncertainty about the location of zoning classification boundaries as shown on the Ravalli County Zoning Map, the Planning Director shall make a determination based on (1) the purpose statements of the zoning classifications involved, (2) known or documented history of the mapping of the classification, (3) known or apparent natural or man-made features such as the centerlines of roads, streams, rivers, and ditches, or (4) platted lot lines or municipal boundaries. The Planning Director's decision may be appealed to the Board of Adjustment.

# **CHAPTER 3: USE REGULATIONS**

## **3.1. SUMMARY USE TABLE**

The Primary Use Table (Table 3.1) and Accessory Use Table (Table 3.2) set forth the land uses allowed for new development in the zoning classifications. Definitions of uses listed in the use tables are found in Chapter 6, *Definitions*. In most cases, property owners may engage in both the primary uses listed in Table 3.1 and extensive accessory uses as described in Table 3.2 and section 3.3. Any primary or accessory use existing on the date this Zoning Resolution is adopted is a Grandfathered Conditions that is allowed to continue indefinitely as described in section 1.7.

**A. EXPLANATION OF USE TABLE ENTRIES**

**(1) Allowed Uses ("A")**

A "P" in a cell indicates that a use type is allowed by right, subject to compliance with the use standards listed in the right-hand column of the tables. Allowed uses

are subject to all other applicable regulations of this Zoning Resolution, including those set forth in Chapter 2, *Zoning Classifications*, and Chapter 4, *Development Standards*.

(2) **Conditional Use ("C")**

A "C" in a cell indicates that a use type is allowed subject to approval of a conditional use permit. Conditional uses are also subject to compliance with the use standards listed in the right-hand column of the table, and to all other applicable regulations of this Zoning Resolution.

(3) **Accessory Use ("A")**

An "A" in a cell indicates that the use is allowed as an accessory use to a legal primary use on the property, subject to compliance with the requirements of section 3.3, *Accessory Uses*.

(4) **Prohibited Uses "P"**

A "P" in a cell indicates that new development of that use is prohibited in that zoning classification. A use that is indicated in Table 3.1 or Table 3.2 as prohibited in the zoning classification where it is located, but that existed prior to the adoption date of this Zoning Resolution, shall be allowed to continue as described in section 1.7, *Grandfathered Conditions*.

**B. USES NOT LISTED**

Uses not listed in the Summary Use Table are prohibited. However, when application is made for a particular use that is not specifically listed in the Table 3.1, the Planning Director shall make a determination of: whether the proposed use is an allowed or conditional use in that zoning classification because it is very similar to a permitted or conditional use or because it falls within the intent of this Zoning Regulation for a similar use.

**C. ALLOWED USE TABLE**

Table 3.1, Allowed Use Table						
Uses	Zone Classifications					Use Standard Section
	RA-40, RA-10, RA-5	R-1, R-U	INS	C	IND	
Agricultural Uses						
Agricultural Uses	A	A	A	A	A	
Commercial kennel, or Veterinary service	A	C	C	A	A	
Commercial agricultural processing and storage facility	A	C	C	A	A	
Farm stand	A	A	A	A	A	
Feed store or storage facility	A	A	C	A	A	
Guest ranch	A	A	P	A	P	
Intensive agricultural operations	A	C	P	C	A	
Logging	C	P	P	P	P	

Table 3.1, Allowed Use Table

Uses	Zone Classifications					Use Standard Section
	RA-40, RA-10, RA-5	R-1, R-U	INS	C	IND	
Stables	A	A	A	A	A	
Resource extraction and processing	C	C	C	C	A	
Riding arena, animal training facility	A	C	C	A	A	
<b>Residential Uses</b>						
Dwelling, multi-family	C	A	C	A	P	
Dwelling, single family	A	A	A	A	P	
Dwelling, two-family	A	A	A	A	P	
Manufactured home park	C	C	P	C	P	
Manufactured home, Class B	A	A	A	A	P	
Manufactured home, Class B or C, existing	A	A	A	A	A	
Townhouse	C	A	C	C	P	3.2.C
Community residential facility (8 or fewer)	A	A	A	A	P	
Community residential facility (9 or more)	A	C	A	A	P	
Daycare home	A	A	A	A	P	
<b>Public/Institution Uses</b>						
Airport/landing field	C	C	C	C	C	
Cemetery, crematory & mausoleum	A	A	A	A	P	
Health care facility	A	A	A	A	P	
Military installation	C	C	A	C	C	
Open land owned by public agency/government	A	A	A	A	A	
Park	A	A	A	A	A	
Public and non-profit exhibit, library, museum, and art gallery	A	C	A	A	C	
Public and quasi-public building or use (includes place of religious worship or public assembly)	A	A	A	A	A	
Utility installation, major	C	P	C	C	A	
Utility installation, minor	A	A	A	A	A	
<b>Commercial Uses</b>						
Adult use	P	P	P	P	C	3.2.A
Bar, casino, or nightclub	P	P	P	C	C	
Commercial service (i.e., contractor, woodworking),	A	C	C	A	A	
Financial service	C	A	C	A	A	
General retail sales and service	C	C	P	A	A	
Heavy equipment and farm machinery sale, rental, and repair	A	C	C	A	A	
Hotel	C	A	C	A	P	
Indoor amusement, entertainment, or recreational facility	A	A	A	A	A	
Medical office/clinic	A	A	A	A	A	
Meeting halls, fraternal clubs	A	A	A	A	A	
Microbrewery	A	C	P	A	A	

Table 3.1, Allowed Use Table

Uses	Zone Classifications					Use Standard Section
	RA-40, RA-10, RA-5	R-1, R-U,	INS	C	IND	
Mini-warehouse	A	C	C	A	A	3.2.B
Neighborhood retail and service facility	A	A	A	A	A	
Outdoor recreational or entertainment facility	C	C	P	A	A	
Outdoor recreational activity, non-developed	A	A	A	A	A	
Parking, public	A	C	A	A	A	
Personal and business services	A	A	A	A	A	
Professional office (government or private)	A	A	A	A	A	
Printing and publishing	A	A	A	A	A	
Restaurant	C	C	A	A	A	
Recreational vehicle park or campground	A	C	P	C	A	
Shopping center	C	C	P	C	A	
Vehicle fuel sales and/or service	C	C	P	A	A	
Vehicle sale and rental	C	C	P	A	A	
Winery	A	C	P	A	A	
Wholesale and bulk goods	C	C	C	A	A	
<b>Industrial Uses</b>						
Bulk storage of flammable liquids or gasses or other hazardous materials	C	P	P	P	C	
Heavy industry	C	P	P	P	A	
Light industry	A	C	C	C	A	
Transportation services	A	C	C	C	A	
Vehicle wrecking	C	P	P	P	C	3.2.D
Warehousing and storage	A	C	C	C	A	
Waste and disposal	C	P	P	P	C	
Recycling center	P	C	A	A	A	
Wholesale and auction sales	A	C	C	C	A	

**D. ACCESSORY USES TABLE**

Table 3.2 Accessory Uses

Uses	Zone Classifications					Use Standard
	RA-40, RA-10, RA-5	R-1, R-U,	INS	C	IND	
Accessory Uses						Section 3.3
Accessory agricultural uses	A	A	A	A	A	
Accessory caretaker's residence	A	A	A	A	A	
Accessory dwelling unit	A	A	A	A	A	

Table 3.2 Accessory Uses

	Zone Classifications				
	A	C	C	C	C
Accessory feed lot	A	C	C	C	C
Accessory landing strip	A	A	A	A	A
Accessory parking	A	A	A	A	A
Accessory wind turbine, less than 100 kWh	A	A	A	A	A
Accessory wireless communication antenna	A	A	A	A	A
Bed and breakfast	A	A	A	A	A
Home occupation	A	A	A	A	A
Rural accessory business	A	P	P	P	P

### 3.2. USE STANDARDS

#### A. ADULT USE

An adult use shall comply with the following standards. (1) no adult service or entertainment use may be located within 1,000 feet of any dwelling unit, place of worship, educational facility serving students under the age of 21, or another adult use; (2) sex objects and adult publications must not be visible from the street; and (3) signs indicating minimum age of admission must be clearly visible from the street.

#### B. MINI-WAREHOUSE

In the Transitional and Urban zoning classifications, a mini-warehouse use shall be constructed and operated so that hazardous or flammable materials are not stored on the property, and no unit is used as a dwelling or as a place where business is conducted.

#### C. TOWNHOMES

Attached townhomes may have a zero-foot side setback for a property line at a common wall. End units must meet the side setbacks for the classification.

#### D. VEHICLE WRECKING

All inoperable vehicles shall be screened by a fence not less than six feet and not more than eight feet in height. Nothing may be stacked or elevated to exceed the height of the screen fence. Parking for operable vehicles may be located outside the screen fence. The site must be maintained in good condition, free of weeds, dust, trash, and debris.

### 3.3. ACCESSORY USES

In addition to each of these primary uses of land listed in Table 3.1, accessory uses that meet the definition of that term in Chapter 6 are allowed. For most land in Ravalli County, the primary use is residential (if an owner or tenant lives on the property) or agricultural (if it is used for crops or livestock and no one lives on the property). Accessory uses to a residential primary use typically include gardens, raising of pets or hobby animals, repairs of equipment and machinery used on the property, hobby activities, and home occupations. Typical accessory uses to agricultural primary

uses include anything done in support of or related to that primary use. Home occupations are a type of accessory use allowed in all zone districts where residential uses are permitted. Any accessory use existing on the date this Zoning Resolution is adopted is a Grandfathered Conditions that is allowed to continue indefinitely as described in section 1.7.

**A. GENERAL**

- (1) No use permit is required for an accessory use except when a conditional use permit is indicated as required in Table 3.2, *Accessory Uses*.
- (2) Home Occupations that have employees who do not live in the home or that have customers visiting the home shall provide adequate parking on-site for those employees and customers.

**B. DIMENSIONAL STANDARDS**

- (1) Accessory uses and structures shall be subject to the dimensional standards in Table 4.1, *Dimensional Standards*, except as specifically provided for in this subsection B
- (2) In the R-1, R-U, C, and INS zoning classifications, the area of the building footprint of an accessory structure shall be limited to 50 percent of the area of the building footprint of the principal structure or 150 square feet, whichever is greater.

## **CHAPTER 4: DEVELOPMENT STANDARDS**

### **4.1. APPLICABILITY**

Unless an exception is stated in this Zoning Resolution, the requirements of this Chapter must be met by all new development and construction, including alteration enlargement of an existing non-grandfathered use or structure, after the adoption date of this Zoning Resolution. Where the strict application of these standards would constitute a hardship as defined in this Zoning Resolution, the Board of Adjustment may grant a variance under section 5.5.C, *Variance*.

### **4.2. DIMENSIONAL STANDARDS**

Table 4.1 includes the required dimensional standards for each zone classification. Sections 3.3, *Use Standards*, and 3.4, *Accessory Uses*, contain dimensional standards that apply to some uses and structures. The setback standards of Table 4.2 do not apply to Grandfathered Conditions. Average density calculations, lot sizes, and setbacks that differ no more than 5 percent from those values shown in Table 4.1 shall be considered to be in compliance with this Zoning Resolution.



**Table 4.1 Dimensional Standards by Zone Classification**

		RURAL			TRANSITION		URBAN		
		RA-40	RA-10	RA-5	RT	TZ	UD	U	UG
Average Density (Units/Acre)		1/40	1/10	1/5	1/1	-	2/1	-	-
Minimum Lot Size		1 acre	1 acre	1 acre	1 acre	-	10,000 sq. ft.	-	-
Minimum Setbacks (feet)	Front, generally	50	25		25	25	25	20	50
	Front, along state or county highway	100							
	Side, generally	15	15	15	15	10[1]	15	0	25
	Side, when abutting existing residential use or classification	15	15	15	15	10[1]	15	15	50
	Rear	25	25	25	25	25	25	10	20
Maximum Structure Height (feet)		65[2]	35	35	35	45	35	45[2]	65[2]
<b>Notes:</b> [1] Or 1/3 of the building height, whichever is greater. [2] Higher structures may be approved by conditional use permit.									

### 4.3. SMALL LOT OPTION

Many zoning classifications established in this Zoning Resolution allow a minimum lot size that is considerably smaller than the average density of the zoning classification. The intent is to allow owners of large parcels to "carve-off" (subdivide) smaller lots to sell while keeping a larger portion of the land intact without exceeding the maximum density of the zoning classification. Under the small lot option:

- A. The new lot must be created from land in the RA-40, or RA-10 zoning classifications, and must contain at least 1 acre of land.
- B. If the new lot is smaller than the average density for the zone classification (e.g., smaller than 40 acres in the RA-40 classification or 10 acres in the RA-10 classification) the property owner must record a deed restriction prohibiting additional development on a portion of the owners' remaining land that is four times the size of the new small lot created. For example, if a property owner in the RA-40 classification creates a new 5 acre lot under the small lot option, the owner must record a deed restriction prohibiting development on 20 acres of additional land in the zone classification.
- C. The small lot option shall be approved as a minor subdivision under the Ravalli County Subdivision Regulations, but shall be reviewed by the Board of County Commissioners on a consent agenda without a public hearing.

- D. Each minor subdivision under this small lot option may contain no more than 3 new lots, and no more than 1 small lot option minor subdivision may be approved per applicant per calendar year.

#### **4.4. CLUSTER OPTION**

The cluster option offers property owners in the RA-40, and RA-10 zone districts density bonuses in return for creating new small lots in clustered layouts that preserve the open, rural character of the land. The cluster option shall also be available for Grandfathered "orchard tracts" in the RA-5 zoning classification in order to encourage the replatting of those areas as clusters to preserve the open, rural character of the land.

##### **A. BONUS LOTS AVAILABLE**

One bonus lot is available for every 2 lots developed through the cluster option rather than standard subdivision. For example, in the RA-40 zone district, a 160 acre parcel can be divided into 4 lots under standard subdivision, but can be divided into 6 lots under the cluster option.

##### **B. CLUSTER STANDARDS**

- (1) Clusters should be located to avoid productive agricultural lands, to avoid interference with irrigation ditches, and to minimize visibility from Highway 93 and the East Side Highway if possible.
- (2) No single cluster may contain more than 10 homes. If more than one cluster is created on a single owner's property, they must be separated to avoid the appearance of a single large development.
- (3) Cluster development areas shall include no more than 20 percent of the land from which development density is being used, and the remaining land shall be protected from future development through a restrictive covenant.
- (4) Cluster lots shall be no smaller than 1 acre each unless the state cluster subdivision provisions are used, in which case a minimum lot size of one-half (1/2) acre is permitted. Cluster option developments may include communal water and sewer systems, but the installation of a communal water or sewer system, or both, shall not permit additional density or an increase in the size of permitted clusters. Proposals to use communal water and/or sewer systems to obtain additional density, smaller lots, or larger clusters shall be processed as PUDs.
- (5) Proposed developments that would create more than 50 residential lots may not use the cluster option, but must instead obtain approval of a PUD for the development.

**C. REVIEW**

The cluster option shall be approved as a standard subdivision under the Ravalli County Subdivision Regulations, but shall be reviewed by the Board of County Commissioners on a consent agenda without a public hearing.

**4.5. PURCHASE OF DEVELOPMENT RIGHTS**

Landowners may elect to sell all or a portion of their development rights to any private or public organization created to purchase development rights for the purpose of removing them from the market. Once sold, a development right is permanently retired and eliminated from the marketplace. The value of a development right should be determined through direct negotiation between the landowner and the purchasing organization.

**4.6. LIGHTING**

In Transition and Urban zone classifications, lighting must be fully shielded to avoid casting direct light upwards or on adjacent residential uses, lodging uses, or institutional uses providing human care, and the light source shall not be visible from adjacent properties or public roads.

## **CHAPTER 5: ADMINISTRATION AND ENFORCEMENT**

**5.1. GENERAL PROVISIONS**

**A. PURPOSE**

The purpose of this chapter is to identify the authority of review and decision-making bodies in the administration of this Zoning Resolution and to define the procedures used to enforce this Zoning Resolution.

**B. APPLICATION REQUIREMENTS**

The Planning Director shall establish and make available to the public application submittal requirements for each review procedure listed in this Chapter. The submittal requirements shall generally be those materials necessary to adequately and rigorously review each development proposal for conformance with the Growth Policy and this Zoning Resolution. The Planning Director may waive any application submittal requirement when, in the opinion of the Planning Director, it is not necessary for adequate review of the specific proposal.

**C. FEES**

The Board of County Commissioners shall by resolution establish a schedule of fees and charges and a collection procedure for each type of permit or approval described in this Chapter. Until all applicable fees and charges have been paid in full, no action may be taken on any application or appeal. No fee for a zoning permit or approval shall be

adopted or amended unless the Board of County Commissioners first holds a public hearing on the proposed fee or amendment.

**D. APPLICATION COMPLETENESS**

No application shall be reviewed by the county until it is complete, as determined by the Planning Director, based on application requirements available in writing from the Planning Department. If an application is incomplete, then within 10 days of submittal the Planning Director shall, inform the applicant in writing identifying which application submittal requirements have not been satisfied, and shall notify the applicant that the application cannot be processed until missing materials are provided.

**E. APPROVAL CONDITIONS**

The officer or body of Ravalli County responsible for a zoning decision is authorized to attach conditions to approvals as necessary to ensure compliance with the Growth Policy, this Zoning Resolution, and with other adopted Resolutions of the County, provided that the conditions are allowed by law. No condition shall require payment of fees or deduction of land unless the amount required is proportional to the impacts of the proposed development and will be used to offset or mitigate those impacts.

## 5.2. ZONING PROCEDURE TABLE

Table 5.1 summarizes zoning review and decision procedures in Ravalli County. This Zoning Resolution may contain exceptions to these authorities in specific cases.

Table 5.1 Summary Table of Planning Review and Decision Authority				
R= Review/Recommend; D=Decision; H = Hearing; A= Appeal				
	Planning Director	Planning Board	Board of Adjustment	Board of County Commissioners
Zoning Compliance Verification Upon Request	R/D		A-H	
Conditional Use Permit	R	D-H	A-H	
Variance	R		D-H	
Amendment to Zoning Resolution Text or Maps (including Planned Unit Developments)	R	R-H		D-H
Optional Takings Avoidance Procedure	R			D-H
Note: [1] Subdivision Plats are regulated by the Subdivision Regulations.				

## 5.3. WHO MAKES ZONING DECISIONS?

**A. PLANNING DIRECTOR**

The Board of County Commissioners hereby designates the Planning Director as the individual responsible to administer and enforce this Zoning Resolution. The Planning Director may designate a member of the Ravalli County Planning Department staff to perform some or all of these duties.

## **B. PLANNING BOARD**

Montana state law (MCA 76-2-204) requires the Board of County Commissioners to direct the Ravalli County Planning Board to recommend boundaries and appropriate regulations for the various zoning classifications. The Planning Board must make written recommendations to the Board of County Commissioners, but its recommendations are advisory only. The Planning Board must make its decisions so as to uphold the intent of countywide zoning as a growth planning tool that implements the Ravalli County Growth Policy. The Board of County Commissioners hereby delegates to the Ravalli County Planning Board the following responsibilities in regards to this Zoning Resolution:

- (1) Review and recommend the Ravalli County Growth Policy or any other planning document designed to be a guide for the orderly development of the community and any other matter referred to it by the BCC.
- (2) Recommend, in writing, boundaries and appropriate regulations for the various zoning classifications.
- (3) Perform those additional duties shown in Table 5.1.
- (4) Adopt written procedures for the conduct of its affairs, keep minutes of the Planning Board meetings on file as public records in the office of the Ravalli County Planning Department, and ensure that adequate notice of the Planning Board meetings and hearings is provided.

## **C. BOARD OF ADJUSTMENT**

### **(1) Established**

A Board of Adjustment (BOA) is hereby established by the Ravalli County Board of Commissioners in accordance with MCA 76-2-321 through 76-2-328. The BOA is a quasi-judicial body that acts on appeals of administrative decision and on variances from the requirements of this Zoning Resolution. Members of the BOA may be removed from office by the Commissioners for cause upon written charges and after a public hearing. Vacancies on the BOA shall be filled by resolution of the Commissioners for the unexpired term of the member affected. The Board of County Commissioners shall appoint five members to the BOA each for a term of two years, except that in the initial appointment two members shall be appointed for a term of one year and three members for a term of two years. Terms shall expire December 31<sup>st</sup> of the relevant year. Members shall be entitled to reimbursement of necessary mileage and expenses approved by the County Commissioners, but shall not be entitled to per diem or salary.

### **(2) Powers**

The BOA shall have the power to perform those duties shown in Table 5.1 as set forth in state law. In exercising the above-mentioned powers, the BOA may reverse, affirm, or modify the order, requirement, decision, or determination of the Planning Director or Planning Board and may make any order, requirement, decision, or determination as required to correct the error or allow the variance,

and shall have all the powers of the individual or body from whom the appeal is taken.

(3) **Proceedings**

The BOA shall select one of its members as chairman and shall adopt rules necessary to conduct affairs in keeping with the provisions of this Zoning Resolution. Meetings shall be held at the call of the chairman and at other times as the BOA may determine. The chairman, or in his absence, the acting chairman may administer oaths and compel the attendance of witnesses. Meetings shall be open to the public.

## **5.4. ZONING PROCEDURES**

**A. ZONING COMPLIANCE VERIFICATION UPON REQUEST**

Upon the request of any citizen or property owner, the Planning Director shall confirm in writing whether a proposed structure or use of land complies with this Zoning Resolution. A building permit for a new structure or an expansion of an existing structure shall not be issued until the Planning Director has confirmed that the proposed structure and/or use of land complies with this Zoning Resolution.

**B. CONDITIONAL USE PERMIT**

A conditional use permit must be obtained before engaging in any use listed as a Conditional Use in Table 3.1, *Allowed Use Table* or Table 3.2 *Accessory Use Table*.

(1) **Requirements**

A conditional use permit may be issued by the Planning Board only if:

- (a) The proposed use meets the requirements of the zoning designation where it is located, including any requirements of section 3.2 *Use Standards*; and
- (b) Any significant adverse impacts on the surrounding area will be avoided or mitigated. In order to mitigate impacts, the Planning Board may attach conditions related to pedestrian safety and convenience, traffic flow, fire or emergency access, off-street parking or loading, availability of adequate utilities, control of signage to promote traffic safety or prevent glare on adjacent properties, or other conditions permitted by section 5.1.E *Approval Conditions* to promote general compatibility with the use and scale of surrounding areas.

(2) **Procedures**

To obtain a conditional use permit:

- (a) The applicant must submit an accurate and complete written application for a conditional use to the Department, and the Planning Director must review the application and forward a recommendation on the application to the Planning Board.

- (b) Public notice shall be published in a newspaper of general circulation at least 7 days in advance of a public hearing before the Planning Board. The owner of the property for which a conditional use is sought or his agent shall be notified of the hearing by mail.
- (c) At the public hearing any party may appear in person, or through an agent or attorney to comment on the proposed conditional use.
- (d) Following the public hearing, the Planning Board shall only approve a conditional use permit if it makes a written finding that the proposed use complies with this Zoning Resolution and will not adversely affect the surrounding area.

(3) **Term**

A conditional use permit shall be in effect for one year from the date of approval, and if the conditional use is started within that period, shall remain in effect until the use ceases to operate for a period of one year, at which time it shall expire.

**C. VARIANCE**

A variance may be requested when a proposed structure will not meet the requirements of this Zoning Resolution. The BOA may not grant a variance that would allow a use not permissible in the zoning classification, but may vary conditions otherwise applicable to a permitted or conditional use listed in Table 3.1 *Allowed Use Table*

(1) **Requirements**

The BOA shall only grant a variance if it makes written findings that:

- (a) That a literal enforcement of this Zoning Resolution will result in unnecessary hardship.
- (b) The hardship is created by special conditions and circumstances that are specific to the land or structures or the physical condition of their occupants and that are not generally applicable to other lands, structures, or buildings in the same zoning classification,
- (c) The hardship does not result from the actions or choices of the applicant.
- (d) Literal interpretation of this Zoning Resolution would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification. However, a variance shall not be justified by Grandfathered Conditions in the surrounding area.
- (e) Granting the variance will not give the applicant any special privilege that is denied to other lands, structures, or buildings in the same classification.
- (f) The variance is the minimum adjustment that will allow the reasonable use of the land, building, or structure, and will not be harmful to the surrounding area, or to the public health, safety, and welfare,

**(2) Procedures**

- (a) Property owner or their agents may submit an application for a variance to the Board of Adjustment (BOA) by filing the application with the Planning Department. The application must state specific reasons why the variance is required, and the Planning Director must review the application and forward a recommendation on the application to the Board of Adjustment.
- (b) The BOA shall fix a reasonable time for the hearing on the variance request, publish notice of the hearing in a newspaper of general circulation at least 7 days prior to the hearing, and shall notify by mail the person requesting the variance and all abutting property owners.
- (c) At the hearing any party may appear in person, or be represented by agent or attorney to comment on the proposed variance.

**(3) Term**

A variance shall remain in effect until the structure or use for which it is granted ceases to operate.

**D. ZONING RESOLUTION TEXT OR MAP AMENDMENT**

The Board or County Commissioners, the Planning Board, or property owners or their agents may file a proposal to amend, any provisions of this Zoning Resolution or the zoning classification boundaries.

**(1) Procedure**

- (a) Written applications to amend this Zoning Resolution or the zoning classification boundaries shall be filed with the Planning Department. The Planning Director shall forward the application with his or her recommendation, to the Planning Board and the applicant or his or her agent prior to the public hearing.
- (b) Within 30 days after the receipt of a complete application, the Planning Board shall hold a public hearing. The notice of the hearing shall include a description of the proposed text change and/or zoning classification change and the time and place of the public hearing. The hearing may be held jointly with the hearing by the Board of County Commissioners, in which case the notice of the public hearing shall follow the Board of County Commissioners hearing notice requirements.
- (c) The applicant or his or her agent shall be present at the public hearing. Failure to appear is grounds for denial of the application.
- (d) Within 35 days of the first public hearing, the Planning Board shall make a written recommendation that the Board of County Commissioners approve the proposal, deny the proposal, or approve the proposal with modifications.



(2) Decision

- (a) The Board of County Commissioners shall hold a public hearing, noticed in accordance with MCA section 76-2-205 to take public testimony on the zoning regulation and/or map change and to consider the recommendations of the Planning Director and Planning Board.
- (b) Following the public hearing, the Board of County Commissioners shall make any revisions or amendments that it determines to be proper and shall approve the proposal, deny the proposal, or approve the proposal with modifications. The Board shall provide a written rationale for its decision.

(3) Protest

If the Board of County Commissioners decides to approve a request to create a new zoning district or change the boundaries of an existing zoning district, the Board shall pass a resolution of its intention and shall publish notice of passage of the resolution of intention once a week for 2 weeks in a newspaper of general circulation within the county. The notice must state;

- (a) The boundaries of the proposed district, the general character of the proposed zoning regulations, and that the proposed zoning regulations are on file for public inspection at the Office of the County Clerk and Recorder; and
- (b) That for 30 days after first publication of the notice, the Board of County Commissioners will receive written protests to the creation of the zoning district or to the zoning regulations from persons owning real property within the district whose names appear on the last-completed county assessment roll; and
- (c) Within 30 days after the expiration of the protest period, the Board of County Commissioners may in its discretion adopt the resolution creating the zoning district or establishing the zoning regulations for the district. However, if 40 percent of the freeholders within the district whose names appear on the last-completed assessment roll or if freeholders representing 50 percent of the titled property ownership whose property is taxed for agricultural purposes under 15-7-202 or whose property is taxed as forest land under Title 15, chapter 44, part 1, have protested the establishment of the district or adoption of the regulations, the Board of County Commissioners may not adopt the resolution and a further zoning resolution may not be proposed for the district for a period of one year.

(4) Evaluation Criteria

- (a) In reviewing the application, the Planning Board and Board of County Commissioners shall consider whether it conforms to the Ravalli County Growth Policy and section 1.3, *Purpose of Zoning Resolution*.

**(5) Planned Unit Development**

**(a) Application and Review Procedures**

A Planned Unit Development (PUD) is a type of zoning regulation amendment. Where the proposed PUD is subject to review as a subdivision under the Montana Subdivision and Platting Act, the Planning Board shall hold a review and a joint public hearing to consider both the proposed zoning regulation change and the related subdivision.

**(b) Review Criteria**

In addition to the general review criteria for zoning resolution amendment, a zoning resolution amendment that is a PUD shall be reviewed to determine that it complies with the purpose, objectives, and design standards in section 2.3.C *Planned Unit Developments*.

**(c) Minor Adjustments to PUDs**

Minor adjustments to PUDs may be made by the Planning Director upon written request of the property owner. Minor adjustments are those changes that may affect the precise dimensions of the buildings and the siting of buildings, but that do not affect the basic character or arrangement of buildings, density, or the open space requirement.

**(d) Major Adjustments to PUDs**

Major adjustments to PUDs require approval through the same procedure used to approve the initial PUD. Major adjustments are those adjustments that, in the opinion of the Planning Director, substantially alter the basic design, density, or open space requirements of a PUD.

**E. OPTIONAL TAKINGS AVOIDANCE PROCEDURE**

Where a landowner believes that this Zoning Resolution or a decision made pursuant to this Zoning Resolution causes an unconstitutional taking of property, the landowner may, at the landowner's option, request a takings avoidance analysis. If requested, the county shall provide a takings avoidance analysis according to the procedures in this section.

**(1) Procedure**

- (a)** The property owner shall file a request for a takings avoidance analysis with the Planning Director within 30 days of any final decision for a zoning application (if the alleged taking took place as a result of that decision)..
- (b)** Upon request, the Planning Department and County Attorney shall prepare a written takings avoidance analysis of any decision on any site specific zoning classification or development application. The analysis shall be provided to the property owner and forwarded to the Board of County Commissioners within 45 days of the request.

- (c) The county may require production of financial information related to the property, the applicant, or attempts to use or sell the property for use(s) as permitted by this Zoning Resolution in order to determine whether reasonable economic use of the property exists.
- (d) If the takings avoidance analysis concludes that the decision or attached conditions creates, or is likely to create, an unconstitutional taking, the application shall be immediately forwarded to the Board of County Commissioners for corrective action.
- (e) The property owner's request for a takings avoidance analysis shall not affect their rights to seek judicial review of the decision pursuant to Montana law.

**(2) Guidelines**

The county shall use the following guidelines in preparing takings avoidance analyses:

- (a) Does the regulation or action result in a permanent or temporary physical occupation of private property?
- (b) Does the regulation or action require a property owner to dedicate a portion of property or to grant an easement that is not roughly proportional to the impacts of the proposed development on public goals, services, or facilities?
- (c) Does the regulation deprive the owner of all reasonable economic uses of the property?
- (d) Does the regulation have a significant impact on the landowner's reasonable investment-backed expectations as defined in decisions of the Montana or federal courts?

**F. APPEALS**

**(1) Appeals from Planning Director's or Planning Board's Decisions**

The Board of Adjustment shall hear and decide appeals where it is alleged that there is an error in any decision made by the Planning Director or Planning Board pursuant to this Zoning Resolution.

- (a) Any person may file a notice of appeal of a decision within 30 days of date the decision was made. The notice of appeal must be submitted to the Planning Director and must comply with the rules adopted by the BOA. The Planning Director shall promptly transmit to the BOA the notice of appeal and all papers constituting the record of the subject decision.
- (b) A timely appeal suspends all proceedings related to decision being appealed, unless the Planning Director certifies that a suspension would cause an imminent threat to life or property and provides written facts in support of that statement.

- (c) The BOA shall fix a reasonable time for a hearing of the appeal, give public notice, and notify the affected parties. At the hearing any person may appear in person or be represented by an agent or attorney.
  - (d) The BOA may reverse, affirm, or modify all or part of the decision being appealed and shall have the same powers of the Planning Director or Planning Board related to that decision.
- (2) **Appeals from Decisions of the Board of Adjustment**  
Appeals from decisions of the BOA may be made in accordance with 76-2-327 and 76-2-328, MCA.

## **5.5. ENFORCEMENT**

### **A. VIOLATIONS**

(1) **Violation a Misdemeanor**

Violation of this Zoning Resolution or failure to comply with any condition attached to a decision under this Zoning Resolution shall be a misdemeanor.

(2) **Complaint and Investigation**

Any person may file a complaint with the Planning Department alleging that a violation of this Zoning Resolution has occurred and stating specific facts to support the allegation. The Planning Director shall record the complaint, shall investigate, and may take action as provided in this Zoning Resolution. Where it is unclear whether a violation has occurred, the county shall give the benefit of the doubt to the property owner, and shall notify the property owner of the complaint but shall take no further action.

(3) **Entry onto Private Property**

County personnel shall not have permission to enter private property for purposes of investigating alleged violations or enforcing this Zoning Resolution unless the property owner has given permission for entry or the apparent alleged violation creates an imminent threat to life or property.

### **B. NOTIFICATION**

If the Planning Director concludes that a violation of this Zoning Resolution has occurred, the following steps may be taken.

(1) **Stop-Work Order**

If the violation exists on a development that is under construction, the Planning Director shall notify the property owner in writing, shall issue a stop work order to suspend the building permit and all related construction until the violation is corrected, and shall notify the property owner that the stop work order may be appealed, within 10 days pursuant to section 5.5.F.

(2) **Notice to Correct**

If the violation exists on a lot or on land or in a structure that is not under development, the Planning Director shall give written notice of the to the property owner of record stating that the violation must be corrected within 10 working days and that the violation can be appealed pursuant to section 5.5.F.

**C. REMEDIES AND PENALTIES**

(1) **Remedies**

After the violation appeal period and/or correction period(s) have passed, if the Planning Director finds that a properly noticed violation has not been corrected, the Planning Director may (a) revoke any zoning approvals or building permits related to the property, and/or (b) remove or correct the violation, record the actual costs of doing so, and recover the amount of the total costs from the property owner by any legal means. The Board of County Commissioners may also take any other lawful action necessary to prevent or remedy any violation.

(2) **Penalties**

Any person who violates this Zoning Resolution or fails to comply with any of its requirements shall, upon conviction, be fined not more than \$500 for each offense or imprisoned not more than six months, or both, and in addition shall pay all costs and expenses involved in the case. Each day the violation continues shall be a separate, punishable offense a (76-2-315, MCA). The owner or tenant of all or part of any building, structure, premises, and any architect, builder, contractor, agent, or other person who commits, participates in, assists, or maintains a violation of this Zoning Resolution may be found guilty of a separate offense and be subject to the penalties specified above.

## **CHAPTER 6: DEFINITIONS**

### **6.1. PURPOSE**

This Chapter contains definitions to clarify the meanings of words as used in this Zoning Resolution. Where a term is not defined, the common or dictionary definition shall apply.

### **6.2. DEFINITIONS**

The following terms are defined for the purposes of this Zoning Resolution.

**ABUTTING/ADJOINING.** Touching or contiguous. Lots separated by a road, irrigation canal, utility, or similar right-of-way or easement shall be considered adjoining.

**ACCESSORY AGRICULTURAL USES.** Private, small-scale, non-commercial agricultural activities such as hobby farms, gardening, 4-H projects, and keeping of common domestic animals and livestock, and private barns, stables, and riding areas.

**ACCESSORY STRUCTURE OR USE.** A use or structure detached from and secondary or subordinate to the principal use or structure on the same lot. Accessory structures for a residential primary use typically include sheds, garages, workshops, chicken coops, photovoltaic panels, solar hot water heating equipment, and similar. Accessory uses to a residential primary use typically include gardens, raising of pets or hobby animals, repairs of equipment and machinery used on the property, hobby activities, and home occupations.

**AGRICULTURAL USE.** The use of land for agricultural purposes including farming, dairying, pasturage agriculture, grazing land, animal and poultry husbandry, horticulture, floriculture, viticulture, silviculture, including all uses customarily incidental to those use, but not including intensive agricultural operations,.

**BED AND BREAKFAST.** Single family residence that offers overnight lodging and a meal for a daily charge and that also serves as a primary residence of the operator or owner. (Refer to 50-51-102, MCA)

**BUSINESS SERVICES.** An establishment that provides support and professional services for other businesses, such as graphic design, reproduction and copying services, computer service and repair, and similar.

**COMMERCIAL AGRICULTURE PROCESSING OR STORAGE FACILITY.** A commercial establishment where agricultural crops and products (excluding animals) are stored or processed, such as a granary, mill, or dairy. The term does not include a slaughterhouse, confined animal feeding operation, auction yard, or meat packing plant.

**COMMERCIAL KENNEL.** A place, building, portion of a building, or activity, that is used or intended for housing 5 or more dogs, cats, or other domesticated animals for the purpose of boarding, breeding, training, or sale. The term includes boarding kennels and dog training centers. The term does not include animal hospitals or pet shops.

**COMMERCIAL SERVICES.** Commercial services includes uses such as farm machinery and heavy equipment repair and sales, machine shops, research laboratories, welding, sheet metal shops, woodworking and cabinet shops, contractor shops, mini-warehouse, and retail lumber yards.

**COMMUNITY RESIDENTIAL FACILITY.** Any one of the following:

1. Community group home. Family-oriented residence that is designed to provide residential services for two to eight individuals with severe disabilities and that does not provide skilled or intermediate nursing care; the term does not preclude the provision of skilled or intermediate nursing care by third-person providers. (52-4-202, MCA)
2. Youth foster home. Youth care facility licensed by the state in which one to six children or youth other than the foster parents' own children, stepchildren, or wards are given food, shelter, security and safety, guidance, direction, and if necessary, treatment. (52-2-602, MCA)
3. Halfway house. A place, building, or portion of a building, that is used or is intended to provide treatment, rehabilitation, and prevention of chemical dependency. (52-24-103, MCA)

4. Adult foster family care home. Private residence owned by one or more individuals 18 years of age or older that offer light personal care or custodial care to disabled adults who are not related to the owner by blood or marriage or that offer light personal care or custodial care to aged individuals. (52-2-302, MCA)

**DAYCARE HOME.** A private residence in which daycare (for less than 24 hours per day) is provided for three to 12 children or persons from separate families, including the operators' children, on a regular basis. (52-2-703, MCA)

**DENSITY.** The number of dwelling units per acre measured as gross acreage inclusive of rights-of-way, parks and open space.

**DWELLING UNIT, SINGLE-FAMILY.** A building or portion of a building providing separate cooking, eating, sleeping, and living facilities for one family. This term shall include modular homes, Class A manufactured homes, and multiple detached single-family dwelling unit condominiums.

**DWELLING UNIT, TWO-FAMILY. (DUPLEX)** A building designed or occupied exclusively by two families living individually of each other, except that common laundry facilities are allowed. This term shall include multiple detached buildings containing two-family dwelling unit condominium buildings.

**DWELLING UNIT, MULTI-FAMILY.** A building used or designed as a residence for three or more families living independently of each other doing their own cooking. This term shall include apartment buildings and apartment hotels with individual cooking facilities and shall also include detached buildings containing multi-family dwelling unit condominiums.

**FAMILY.** One or more persons living, sleeping, and usually cooking and eating on the premises as a single housekeeping unit.

**FEEDLOT.** An animal enclosure where the land is not grazed or cropped annually, but is used to feed over 100 livestock animals or over 500 poultry animals as a primary use of the land.

**GENERAL RETAIL SALES AND SERVICE.** A retail establishment in a single building of between 15,000 and 50,000 square feet of floor area offering goods for sale to the general public.

**HEALTH CARE FACILITY.** A place, building, or portion of a building that is used or is intended to provide health services, medical treatment, or nursing, rehabilitative, or preventative care to any person or individuals; the term does not include offices of private physicians or dentists; the term includes ambulatory surgical facilities, hospitals, kidney treatment centers, long term care facilities, medical assistance facilities, mental health centers, outpatient facilities, public health centers, and rehabilitation facilities.

**HEIGHT.** The average vertical distance from finished grade to the highest point of a structure for flat roofs, to the deck line for mansard roofs, and to the main heights between eaves and the ridge for gable, hip, or gambrel roofs.

**HOME OCCUPATION.** Any occupation, professional, enterprise, or similar activity that is conducted on the premises of a residence as an accessory use and that has few if any impacts

on surrounding properties beyond those produced by residential use alone; the term does not include hobbies or similar non-commercial activities or any activity that would meet the definition of an industrial use. The business operator must live in the residence.

**INDUSTRY, HEAVY.** Industrial uses that are likely to have heavy to moderate impacts on surrounding properties or where processing, assembly, or manufacturing activities take place outside of buildings. Includes manufacturing or processing uses such as, cement, concrete and paving products; mixing plants, large scale industries; and meat packing, processing, rendering plants.

**INDUSTRY, LIGHT.** Industrial uses that are likely to have light impacts on surrounding properties or where all processing, assembly, or manufacturing activities take place inside of enclosed buildings. Includes uses such as ice plants and storage, steel products fabrication, industrial laboratories, fabrication or assembly of products from prestructured materials or compounds, manufacturing and processing facilities, and pharmaceutical products manufacture.

**INTENSIVE AGRICULTURAL USES.** Agricultural uses that are intensive in their land use impacts, such as a feedlot, rendering plant, food processing operation, or slaughter house.

**LOT.** A parcel or tract of land shown as an individual unit of ownership on a certificate of survey, subdivision plat, deed or other instrument of record.

**LOT LINE, FRONT.** The lot line along the public street abutting the property, and if there are more than one, then the lot line in front of the front face of the primary structure, as determined by the Planning Director.

**LOT LINE, REAR.** A lot line that does not intersect a front lot line and that is most distant from and most closely parallel to the front lot line.

**LOT LINE, SIDE.** A lot line that is not a front or rear lot line.

**MANUFACTURED HOME.** A single-family dwelling unit that: (a) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, and (b) exceeds 40 feet in length and eight feet in width. The term includes, but is not limited to, "trailer homes," "house trailers," and "mobile homes" whether or not the unit has been constructed after July 1, 1976, in conformance with Federal Manufactured Home Construction and Safety Standards. The term does not include "modular homes" that are fabricated at a factory in accordance with the Uniform Building Code Standards applicable to site-built homes, and are transported to the site for final assembly on a permanent foundation.

**MANUFACTURED HOME, CLASS A.** A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies each of the following additional criteria:

- 1.. The home has a length not exceeding four times its width;
2. The roof has a minimum vertical rise of 3 inches for each 12 inches of horizontal run (3:12), and the roof is finished with a type of shingle that is commonly used in standard residential construction;



3. The exterior siding consists of wood, hardboard, aluminum, or vinyl siding comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;
4. A continuous, permanent perimeter foundation that complies with the Uniform Building Code is installed under the home; and
5. The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.

**MANUFACTURED HOME, CLASS B:** A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction but that does not satisfy the criteria necessary to qualify the house as a Class A manufactured home.

**MANUFACTURED HOME CLASS C:** Any manufactured home that does not meet the definitional criteria of a Class A or Class B manufactured home. This structure is also referred to as a mobile home.

**MANUFACTURED HOME PARK:** A residential use in which more than one manufactured home is located on a single lot. Manufactured home parks must also comply with the Ravalli County Subdivision Regulations.

**MEDICAL OFFICE/CLINIC.** An establishment that provides care by a licensed medical practitioner such as a physician, dentist, chiropractor, acupuncturist, optometrist, medical laboratory, urgent care, and similar, but does not include a hospital. May include a pharmacy or dispensary that is secondary to the office or clinic use.

**MINIMUM LOT SIZE.** The minimum area of a lot measured as the gross acreage.

**MOBILE HOME.** See MANUFACTURED HOME, CLASS C.

**MODULAR HOME.** A single-family dwelling unit constructed in accordance with the standards set forth in the Uniform Building Code and bearing the insignia of the State of Montana, applicable to site-built homes, and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. A modular home may consist of two sections transported to the site in a manner similar to a manufactured home (except that the modular home meets the Uniform Building Code Standards applicable to site-built homes), or a series of panels or room sections transported on a truck and erected or joined together on the site. This term does not include mobile home or manufactured home.

**OUTDOOR RECREATION OR ENTERTAINMENT.** A place, structure, or portion of a structure, that is used or is intended for outdoor sports fields or courts, as well as spectator-type uses or events. The term includes race tracks, motocross courses, golf courses, tennis courts, sports arenas, and the like.

**OUTDOOR RECREATION, NON-DEVELOPED.** A place used for outdoor recreation activities not using specialized buildings or structures, such as hiking, picnicking, and similar, with limited structures or amenities such bathroom facilities, picnic tables, benches, and non-commercial signs.

**NEIGHBORHOOD RETAIL SALES AND SERVICE.** Retail sales and personal and business service uses in a single building of less than 15,000 square feet of floor area that are intended to serve the needs of nearby residents.

**PERSONAL SERVICES.** An establishment that provides services involving the care of a person or of a person's apparel, such as laundry and dry cleaning services, beauty shops, spa services, barber shops, shoe repair shops, and tailors.

**PRIMARY USE.** The predominant use of a property, as determined by the Planning Director.

**PROFESSIONAL OFFICE.** Offices, whether public or private, occupied by accountants, architects, engineers, lawyers, financial and insurance agents, real estate agents, accountants, government administrators, and other professions that are of similar nature.

**PUBLIC AND QUASI-PUBLIC BUILDING OR USE.** Any building, structure, or use constructed and owned or operated by a governmental, tax-supported, religious, welfare, or charitable organization or institution, such as educational facilities, stadiums, assembly halls, camps, religious institutions, and community buildings or other similar uses not listed separately in Table 3.1.

**RECYCLING CENTER.** A place, building, or portion of a building, that is used or is intended for collecting, sorting, and/or processing recoverable materials prior to shipment to others who use those materials to manufacture new products. Typical types of recoverable materials include glass, paper, cardboard, metal, plastic, and building materials. The term shall not include a junk yard.

**RESOURCE EXTRACTION AND PROCESSING** includes uses such as gravel pit, quarry, sand pit, top soil stripping (MCA 76-2-209) and rocks, sand, and gravel processing and distribution.

**RESTAURANT.** A place, building, or portion of a building, that is used or intended for the preparation and sale of food and beverages for immediate consumption on the premises, and where consumption of beer, wine, or other alcoholic beverages, if any, is secondary and subordinate to the sale of food and beverages. The term does not include a grocery store with a food service section.

**RURAL ACCESORY BUSINESS.** Any commercial or industrial use or similar activity that is conducted on a rural property where the primary use is an agricultural primary use, and that has few if any impacts on surrounding properties, regardless of whether it meets the definition of an accessory use or home occupation.

**SETBACK.** The horizontal distance between the property line, edge of road easement or other feature, such as a high water line, and any structure.

**STOP WORK ORDER.** An order issued by the county that requires that any activity cease that is found to be in violation of this Zoning Resolution.

**STRUCTURE.** Any permanent or temporary object that is constructed, installed on, or affixed to a parcel of land. It includes buildings of all types, bridges, in-stream structures, storage tanks, walls, fences, swimming pools, towers, antennas, poles, pipelines, transmission lines,

smokestacks, signs, and similar objects, but does not include vehicles, such as cars, trucks, trailers, or boats.

**TOWNHOUSE.** A building or structure that has three or more single-family dwelling units erected as a single building, each being separated from the adjoining unit or units by an approved firewall or walls along individual property lines and providing for fee simple ownership of land and dwelling unit.

**TRANSPORTATION SERVICES.** A place, building, or portion of a building used for transportation of goods or materials, including uses such as truck or rail freight terminal, railroads, and all associated uses.

**VETERINARY CLINIC.** A place, building, or portion of a building that is used or is intended for the medical care of animals, and that may include office space, medical labs, kennels and/or enclosures for animals under the immediate medical care of a veterinarian. The term includes pet clinics, dog and cat hospitals, animal hospitals, and the like.

**UTILITY INSTALLATION, MAJOR.** A utility installation generally having moderate to high impact on neighboring property; the term includes pipeline pumping stations, sewage treatment plants, electrical substations, water towers, freestanding wireless communication facility towers greater than 60 feet in height, and similar installations. Does not include coal-fired or nuclear power plants.

~~UTILITY INSTALLATION, MINOR.~~ A utility installation generally having low impact on neighboring property; the term includes public water system wells, sewer lift stations, irrigation ditches, gas regulation structures, freestanding wireless communication facility towers less than 60 feet in height, water/fire hydrants, and similar installations.

**VEHICLE FUEL SALES AND/OR SERVICE.** A place, building, or portion of a building that is used or is intended for the retail sale of gasoline, kerosene, diesel, or other petroleum-based motor fuels; the term includes the sale of convenience foods and goods, provided it is secondary to the sale of fuels. The use also includes a place, building, or portion of a building that is used or is intended for maintenance, service, and repair of vehicles.

**VEHICLE SALES AND RENTAL.** A place, building, or portion of a building that is used or is intended for buying, selling, exchanging, taking for consignment, renting, or leasing new or used vehicles, including cars, light trucks, snowmobiles, motorcycles, all-terrain vehicles (ATVs), recreational vehicles, and personal water craft.

**WAREHOUSING AND STORAGE USES.** A place, building, or portion of a building used for medium to long-term storage of goods or materials before shipment to another commercial user. Includes uses such as: building and storage yards, storage yards and warehouses, but not including mini-warehouses.

**WASTE AND DISPOSAL.** A place, building, or portion of a building used for collection, processing, and/or disposal of waste or discarded objects. Includes uses such as: junk yard, sanitary landfills, solid waste transfer stations, and vehicle wrecking, scrap, salvage yards.

# Hypothetical Timeline for Implementation of "Option 4" by November 7, 2008

## July 2008

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23 Internal review of Draft C	24	25	26
27	28	29	30	31		

## August 2008

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1 Completion of PB draft regs (and maps?)	2
3	4 Advertisement for PB public meeting	5	6 Start of PB public meetings →	7	8	9
10	11	12	13 ← Conclusion of PB meeting	14 Begin drafting PH draft →	15	16
17	18	19	20 Last day to complete PH draft, submittal of legal ad	21	22	23
24	25 First publication of legal ad for BCC hearing	26	27	28	29	30
31						

## September 2008

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1 Second publication of legal ad for BCC hearing	2	3	4	5	6
7	8 Start of BCC hearing →	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25 Last day for adoption of intent to adopt, final proposal	26 Submittal of legal ad	27
28	29	30				

## October 2008

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1 First pub. of legal ad (start of 30-day protest)	2	3	4
5	6	7	8 Second publication of legal ad	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31 Conclusion of 30-day protest	

# November 2008

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3 Counting of protests →	4	5	6 ← Counting of protests	7 Final adoption of resolution	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						